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Statutes of
THE UNITED STATES
AND OF THE
SEVERAL STATES AND TERRITORIES
RELATING TO THE
Custody of the Insane.



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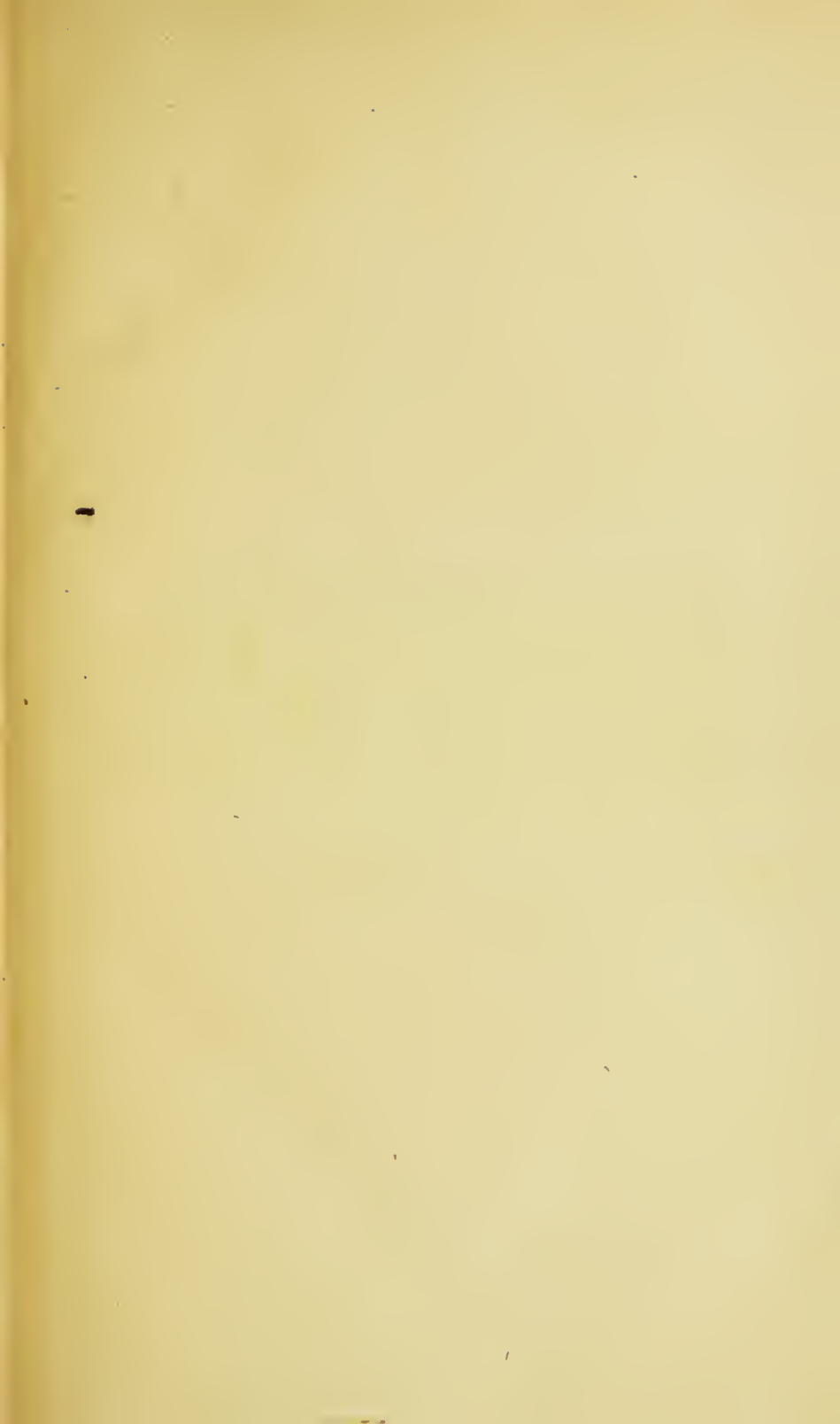
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ABSTRACT

OF THE

STATUTES OF THE UNITED STATES, AND OF THE SEVERAL STATES AND TERRITORIES, RELATING TO THE CUSTODY OF THE INSANE.

BY

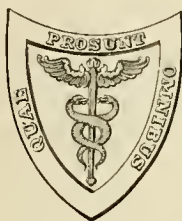
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GENERAL CONSIDERATIONS.

THE insane asylums in the several States are, as a rule, under the direction of a board called trustees, directors, commissioners, visitors, managers, regents or administrators. These boards are in some cases elected by the legislature, more commonly appointed by the governor of the State, with or without the advice or consent of the council, or senate, or legislature. The boards are required to visit the hospitals at stated intervals, and to make annual or biennial reports to the governor or to the legislature. For the most part they appoint the medical officers of the asylums, generally with the approval of the governor. In some States the governor appoints such officers. In Maine one member of the board must be a woman, and in Iowa two may be women.

In West Virginia the board is appointed by the board of public works. In Florida, Nevada, Rhode Island, and Wisconsin, the board of commissioners of charitable and correctional institutions is the board of trustees. In the District of Columbia the visitors are appointed by the President. In North Carolina, Tennessee, and Virginia, there are separate asylums for negroes. County asylums, where they exist, are not much better than almshouses or houses of correction for the most part : and the laws requiring them, in the few States where there are such, are often disregarded. In Massachusetts there were never more than three, and there is now only one.

The various asylums have different by-laws regarding payment of dues for patients, etc. Women are employed as physicians in some, and in one State, Nebraska, there must be one female physician.

In those States where the laws do not specify regulations for the commitment, or admission, of private patients, the trustees are allowed to include that matter under their by-laws ; and they generally prescribe a medical certificate from one physician, or two, which in some States must be signed under oath.

The civil laws of all the States provide the right of habeas corpus, according to law, and the possibility of a jury trial to a person demanding his discharge from an insane asylum ; they deal in various ways with the disqualifications of the insane as to holding office, voting, serving as jurors or witnesses, managing property, marrying, and guardianship. In a few States incurable insanity is ground for divorce.

STATUTES OF THE UNITED STATES, AND OF THE SEVERAL
STATES AND TERRITORIES, RELATING TO THE
CUSTODY OF THE INSANE.

ALABAMA.¹

Patients are received at the insane asylum from the several counties of the State in proportion to the numbers of their insane population. In order of admission the indigent insane have precedence over those able to pay, and recent cases over those of long standing.

Paying patients are received on the following requirements: (1) security for the payment of charges and expenses; (2) a certificate of insanity from one or more respectable physicians; (3) certain prescribed information as to the condition of the patient.

Indigent patients are admitted only after application to the judge of the probate court in the county where the patient resides. The judge being informed that there is room for the patient at the asylum, must call one respectable physician and other witnesses, and, either with or without the verdict of a jury, at his discretion, decides the questions of insanity and indigence. The physician's certificate of insanity is taken under oath.

If a paying patient, after three months, becomes indigent, and the superintendent certifies that he is a fit patient to remain, he may be retained at the expense of the State, on the certificate of the probate judge of his county.

Indigent patients after two years' residence in the hospital, if they are not likely to be benefited by longer treatment, and are not dangerous, may be removed by order of the superintendent to the poor-house of the county of which they are resident.

When a person has escaped indictment, or has been acquitted of a criminal charge, on the ground of insanity, the court shall ascertain whether the insanity in any degree continues; in which case the court shall order the prisoner to be sent to the insane asylum.

If a person, held in confinement to await trial or for want of bail, appears to be insane, the court must make an investigation, call a respectable physician and other witnesses, and, if necessary, a jury. If it is proved that the person is insane, the court may discharge him from imprisonment and order his removal to the hospital, where he must remain

¹ Code of Alabama, 1876, §§ 1470-1503, 2753-2769, 2782, 2795-2799, 2802-2807, 2894, 2895, 3756, 3758, 3836, 3838, 3843.

until restored to his right mind. In case of a recovery he is remanded to jail.

Convicts who become insane while serving their sentence, or who are insane at the expiration of their term, if found to be suitable patients for the insane asylum, may be sent there by the Governor. A convict sent to the insane asylum who recovers before the expiration of his term of imprisonment must be returned to the penitentiary or discharged, as the Governor may order.

ARIZONA.¹ (TERRITORY.)

Provisions for the confinement and care of all insane persons in each county shall be made by the board of supervisors of each county, either in the county jail or in such other place as they shall think best. The Governor may make contracts for the keeping and treatment of the insane in any hospitals in the State of California.

The probate judge of any county, upon an application under oath, stating that a person by reason of insanity is dangerous, shall cause the person to be brought before him for examination, shall summon two or more witnesses acquainted with the accused, and shall cause to appear one or more graduates in medicine who are also reputable practitioners. The physician or physicians shall be present during the hearing, and shall make a personal examination of the accused, and shall set forth in a written statement to be made upon oath: (1) his or their opinion as to the insanity of the party charged; (2) whether it be dangerous to the accused, or to the person or property of others, that the accused go at large; (3) whether such insanity is, in his or their opinion, likely to prove permanent or only temporary. The judge, if satisfied that the person is insane and unfit to be at liberty, shall make an order directing his confinement. The property of the insane person is applied, so far as it will go, to paying the expense of his commitment and maintenance.

Upon proof that a person confined for insanity is no longer insane or dangerous, the probate judge may direct that he be set at liberty.

The Governor shall appoint some suitable person to visit once in three months the asylums in California where there are patients from Arizona, to see that they are properly treated, and to direct the discharge of those who are sufficiently restored to reason.

¹ Compiled Laws, 1877, §§ 1193-1203.

ARKANSAS.¹

Each county of the State is entitled to send to the insane asylum a certain number of patients, proportionate to the number of its inhabitants, as shown by the last census.

Patients are committed to the asylum in the following manner :

(1) Some reputable citizen files with the county and probate judge a written statement, certifying that the patient is a resident of the county and is, to the best of his belief, insane, and ought to be committed to the asylum for care and treatment. This statement is subscribed and sworn to before the judge, who also signs it. (2) The judge, at an appointed time, hears the testimony of the witnesses produced, and also causes an examination to be made by one or more regular practising physicians of good standing. Interrogatories, twenty-six in number, touching the habits, history, and condition of the patient are prescribed, and the physician or physicians are required to obtain answers. A sworn statement of the result of the examination, including the questions and answers, must be made by the physician or physicians and presented to the judge. (3) If the judge is satisfied that the person is insane and a fit patient for the asylum, he makes his decision in writing. (4) The superintendent notifies the judge whether there is room in the asylum unoccupied. If there is no room, the name of the insane person is entered on the register of the asylum, and the patient will be entitled to admission as soon as there is a vacancy. (5) If the judge receives word that there is room for the patient, he issues an order to the sheriff to take the insane person and deliver him to the superintendent of the asylum. Any insane person, a citizen of the State, whose estate will not maintain himself and his natural dependents, may be admitted to the asylum and maintained at the public expense. Insane persons having property may be admitted if there be room.

Patients are classified into three classes: acute, chronic, and probably incurable. If the hospital is crowded with patients, a preference is given, in the order of admission, to the acute class, and vacancies may be made by discharging those who are probably incurable.

A patient who has not recovered may be discharged and given into the care of his guardian, relatives, friends, or removed to such place as is provided for his further custody. Such removal is made by the sheriff, or his deputy, by the order of the county and probate judge. Persons who have not recovered may also be removed by their friends with the consent of the superintendent, or by the direction of the board of trustees. Patients who have recovered may be discharged by the superintendent, but notice shall be sent to the county and probate judge, if the removal is without his order.

¹ Arkansas Digest, 1874, §§ 302-326, 1227, 1228, 1828, 1966, 1988, 2001, 2002, 3488-3539, 4496-4500, 4539.

Acts of the General Assembly of the State of Arkansas, 1883, pp. 2, 18-26, 150-153, 182.

The sheriff, of each county, before delivering any patient to the superintendent, shall see that he or she is provided with suitable clothing to the amount prescribed.

Any person attempting to commit a patient in a way contrary to the provisions of the statute, is guilty of a misdemeanor, and liable to a fine of not less than \$50 nor more than \$300.

If a lunatic is furiously mad, so as to be dangerous, it shall be the duty of his guardian or the person in charge of him, to confine him in a suitable place until the next term of the circuit court for the county, which shall make such order for the safe keeping of the person as the circumstances of the case may require. If there is no person in charge, or if the person in charge fails to take care of such lunatic, any judge of a court of record, or any two justices of the peace of the county, may cause such insane person to be taken into custody and confined until the circuit court shall make further order.

Insane persons at large shall be arrested by any peace officer and taken before a magistrate, who shall make such orders as are necessary to keep them in restraint until they can be sent by due process of law to the asylum.

Insane paupers may be taken care of in the poor-house of the county.

If in a criminal case, in the course of trial, or after trial and before judgment, the court shall be of the opinion that there are grounds for believing the defendant insane, all proceedings shall be postponed and a jury called to inquire whether defendant is of unsound mind. If found insane, he shall be kept in confinement in prison or in the county jail, or sent to the lunatic asylum until he is restored. If in the opinion of the court he is sane, the trial is to proceed or judgment be pronounced as the case may be.

If a person is under sentence of death, and the sheriff is satisfied that there are reasonable grounds for believing him insane, he may summon a jury to try the question. If the person be found insane, the sheriff shall suspend the execution and report the case to the Governor.

Persons acquitted of crime on the ground of insanity must be so reported by the jury in their verdict, and they shall be committed to the asylum by the court for further proceedings or for discharge upon their recovery, at the discretion of the court. Convicts becoming insane are not admitted to the asylum during their term of service, but are treated in the penitentiary.

CALIFORNIA.¹

Patients are committed to the Stockton Asylum in the following manner: Whenever it is made to appear by affidavit to a magistrate of

¹ Codes and Statutes of California, by Hittell, 1876, Vol. I. §§ 2136-2222; Vol. II. §§ 11,763-11,766, 13,361, 14,367-14,373, 14,221-14,224, 14,582; Vol. III. §§ 14,368, 14,370, 14,373. Statutes of California, 1881, Chap. ix.; 1883, Chaps. liv. and lxi.

the county that any person within the county is so far disordered in his mind as to endanger health, person, or property, he issues a warrant directing that the person be arrested and taken before some judge of a court of record in the county for examination. This judge summons two or more witnesses from the persons best acquainted with the insane person, and at least two graduates in medicine. The physicians must be present at the hearing and make a personal examination of the alleged insane person. The physicians must, if they believe the person dangerously insane, make a certificate stating the fact and showing, as far as possible, the nature and duration of the disease, and the age, residence, and condition of the patient. The judge, if he is satisfied that the person is so far insane as to endanger health, person, or property, makes an order that he be confined in the Asylum. This order is executed by the sheriff. Idiots, imbeciles, and persons affected with delirium tremens are not admitted.

Commitment to the Napa State Asylum is in substantially the same manner, except that the application is made to the County Judge or to the Probate Judge of San Francisco, who conducts the examination and makes the order for commitment. Also, the physicians are especially required to ascertain whether the case is of a recent or curable character, and whether the insane person is of a homicidal, suicidal, or incendiary disposition, so as to be dangerous to himself or the community. There is the same provision as to idiots, imbeciles, and cases of chronic or harmless mental unsoundness, and the resident physician is directed to return such persons to the county from which they were committed.

The judge shall inquire into the pecuniary ability of persons committed to the Asylum, and, if there is property sufficient to pay charges, the judge shall appoint a guardian to take the property and apply it to paying for the maintenance of his ward. If the insane person is indigent, but has husband or wife, father, mother, or children living within the State having means, they shall pay for his support to the extent and in the manner prescribed for paying patients.

If the kindred or friends of a patient make it appear to the judge of the court who issued the commitment that they are capable of giving him proper care, the judge may issue an order for the removal of such person. No other order or application for release shall be heeded by the Trustees, except it be the order of a court or judge on proceedings in habeas corpus. If it is brought to the knowledge of the judge that a patient so removed is not properly cared for, or is dangerous for want of care, he may order such patient to be returned to the Asylum.

Non-residents shall not be supported at public expense in either asylum, except temporarily if stricken while travelling in the State.

The judges authorized to commit persons may send all patients to the Napa Asylum until it is filled, but may order transfers to be made from one asylum to the other, with the consent of the resident physicians of each asylum, the expense of the transfer to be paid by the guardian or friends of the patient.

If doubts arise as to the sanity of the defendant in a criminal case, either during trial or before judgment, the court must order the question to be submitted to a jury, and must suspend the trial or the pronouncing

of judgment. If the defendant is found insane, the court must order him sent to the State Insane Asylum. If he becomes sane, the superintendent shall send word to the sheriff and district attorney, who must put the defendant into custody until he is brought to trial or judgment.

If a person has been sentenced to death and there is good reason to believe that he has become insane, the sheriff, with the concurrence of the judge who rendered judgment, may summon a jury to inquire into the supposed insanity. The district attorney is to be notified, and is to attend the inquisition. If the defendant is found insane, the sheriff must inform the Governor, who may, when the defendant becomes sane, order execution of the judgment.

When a convict, in the opinion of the physician, warden, and captain of the yard of the State Prison, is insane, they must certify the fact to the Governor, who may order the removal of the prisoner to the Insane Asylum. If the convict recovers in the Asylum, the warden of the State Prison is to be notified, and the convict is returned to the prison, if his term of imprisonment has not expired.

COLORADO.¹

Until the asylum for the insane now building is ready, lunatic paupers are transported to some convenient asylum, either within or without the State limits; the expense to be paid in the first instance by the county of which the lunatic is a resident. This expense shall be repaid the county out of the State fund. If any relatives of the lunatic, bound by law to support him, and having means, are found in the State, the money expended is to be collected of them.

Whenever any reputable person shall file a complaint, duly verified, in the county court, alleging that any person is a lunatic or insane person, and that he has property, and is incapable of properly managing the same, the judge shall order a jury of six jurors to be summoned to try the question of sanity. If the jury find that such person is so insane as to be unfit to manage his property, the court shall appoint some fit person to be conservator of his estate. Whenever any reputable person files with the county court a complaint that any person is so insane or distracted as to be dangerous to himself or others, if allowed to go at large, the judge shall issue an order for the apprehension of such person; provided, also, that when any sheriff or constable shall find any such insane person at large, he shall apprehend him without any order of the court. The person thus arrested shall be taken forthwith before the county court, or judge thereof, and an inquest, by six jurors, shall be

¹ General Laws, State of Colorado, 1877, pp. 602-610. Session Laws of Colorado, 1879, pp. 11, 87-92; 1881, pp. 130, 141, 142; 1883, pp. 32, 33.

held in the mode above stated. It may be held without delay, if the alleged lunatic so elect; otherwise not until at least ten days' notice has been given to him, and to a guardian, who shall be appointed for him. Until the determination of the inquest, the alleged insane person shall be confined in the county jail, or other convenient place. If the jury find that such person is so insane as to be unfit to go at large, the court shall commit him to the county jail or other convenient place; provided that, both before and after such inquest, if there is any relative or friend suitable to have the custody of such alleged insane person, the county court shall order him to be delivered into the custody of such relative or friend. It is provided further that both the above-mentioned complaints may be filed at once, and one inquest held to determine both. No inquest shall be had as to the lunacy of any person charged with a criminal offence until ten days' notice has been given to the district attorney or other prosecuting officer.

In case any lunatic has no relative or friend who will take care of him, the overseer of the poor-house of the county, or such other person as the county commissioners may appoint, shall have the charge of the body of such lunatic, and shall comfortably support him, at the expense of the county, unless there is property in the hands of his conservator. If there is such property, the conservator shall pay the expenses.

If any person shall present to the county court an information in writing, stating that any person found by it insane has been restored to reason, the court shall cause the fact to be inquired of by a jury. If, upon such inquest, he is found restored, he shall be set at liberty, and his conservator shall return to him his property.

All money expended by any county for the support or custody of lunatics shall be reimbursed to it out of the State fund.

CONNECTICUT.¹

When a pauper in any town is insane, a selectman of such town applies to the judge of probate of the district where the pauper resides, asking for his admission to the insane hospital. The judge shall appoint a respectable physician to investigate and report the facts of the case. If the physician is satisfied of the insanity of the pauper, the judge shall order the selectman to take him forthwith to the hospital. A part of the expense of his support is paid by the town, and the balance by the State.

When a person indigent, but not a pauper, is insane, any person, on his behalf, may apply to the judge of probate, who shall appoint a respectable physician and a selectman of the town where the insane

¹ General Statutes of Connecticut, 1875, pp. 19, 20, 25, 56, 96-100, 536, 537. Public Acts of Connecticut, 1875-1880, pp. 25, 248, 249, 254, 327, 328, 342, 424, 452; 1881, pp. 10, 11; 1882, pp. 193, 222; 1883, p. 255.

person resides, to investigate the case and report. If the judge is satisfied that the person is indigent and insane, he shall order him to be taken to the hospital by the person making the application. Half the expense of his support shall be paid by the town and half by the person making the application.

The judge shall make a record of his orders for admission, and shall send copies of them to the Governor.

Paying patients, also, may be committed to the hospital by the superintendent, under special agreements, and conformably to law, when there are vacancies. Any sum paid by a town for the support of an insane person may be recovered from such insane person or out of his estate, if any ever comes into his possession. An insane person may be put in any suitable hospital, retreat for the insane, asylum, or place of detention, by the relatives, friends, or guardian, on the presentation of a sworn certificate, made within thirty days, signed by some reputable physician, stating that he has made a personal examination within a week prior to the date thereof, and that such person is insane. This certificate and the character of the signer shall be certified by an officer authorized to administer oaths. Any person thus confined may be removed by the person causing him to be detained.

On a written complaint to any judge of the Superior Court that a person is insane, and unfit to go at large, the judge shall appoint a committee, consisting of a physician and two other persons, one of whom shall be an attorney-at-law, judge, or justice of the peace, who shall examine into the case, and report to the judge the facts and their opinions thereon. If, in their opinion, such person should be confined, the judge shall issue an order therefor.

Any dangerous insane person at large may, by order of a justice of the peace and the first selectman of the town, on the certificate of a respectable physician of such town, be confined in some suitable place. If the person under whose care he shall be, or who is bound to support him, shall not so confine him, he shall be ordered to a suitable place by the justice and selectman.

When any insane person is at large in any town, any person may complain to any selectman or justice of the peace of the town, and if he do not within three days provide for the confinement of such insane person in the manner above stated, the complainant may complain in writing, under oath, to any justice of the peace in the town, and such justice shall thereupon order a constable to bring such insane person before some justice of the peace residing in the town, who, if finding that such insane person is unfit to go at large, may order him to be confined in some suitable place for such time as he deems proper. But he may at any time, for just cause, order his discharge. And the Superior Court, on the petition of any person so confined, or of his relatives, the town to which he belongs being made a party respondent, may make any proper order with respect to his future disposal. All expenses are to be paid out of the estate of the insane person, if he has any; if not, by his relatives liable by law to support him; and if none such, by the town where he belongs.

Persons in charge of any place of detention for the insane may dis-

charge persons placed therein, other than criminals and such as have been sentenced, at their pleasure.

The Board of Charities, consisting of three men and two women, appointed by the Governor and removable at his pleasure, shall inspect all institutions in which persons are detained by compulsion, to ascertain whether inmates are properly treated, and whether any have been unjustly placed or are improperly held therein. The insane asylums shall be visited as often as once a month.

Any judge of the Superior Court, on information to him that any person is unjustly deprived of his liberty by being detained in any insane asylum, or in any place for the confinement of the insane, or in any inebriate hospital, in the State, may appoint a commission of not less than two persons, who shall fix a time for a hearing, and shall have one or more private interviews with the person confined, and shall make due inquiries of the physicians or other persons having him in charge, and shall make a report to the judge of the facts and their opinion thereon. If, in their opinion, the party is not legally detained, or is cured, or his confinement is no longer beneficial or advisable, the judge shall order his discharge. But no commission shall be appointed as to one person oftener than once in six months.

Any superior court, city court, or police court, before which a person is tried on a criminal charge, and acquitted on the ground of insanity, may order such person to be confined in the Connecticut Hospital for the Insane for such time as such court shall direct, unless some person shall give bond to the State to confine such person in such manner as the court shall order. If the insane person has any property, the court shall appoint an overseer with the powers and duties of a conservator. If he has no estate, the expense shall be paid by the town to which he belongs; if he belongs to no town, then by the State. Any person thus confined, or the officers of the Hospital, may petition the Superior Court of the county in which he is confined for his enlargement. The selectmen of the town to which he belongs shall be served with notice, and the State's attorney for such county shall appear, and the court shall make such order as it shall deem proper as to his disposal.

If a person confined in jail upon the commitment of a justice of the peace is thought to be insane, or an idiot, the county commissioners shall appoint a reputable physician to make an examination. If the physician is of opinion that the prisoner is insane, or an idiot, he shall make a certificate to that effect and deliver it to the commissioners. The commissioners may notify the selectmen of the town where the prisoner belongs, and they shall forthwith remove the prisoner from the jail, and provide for him in some suitable place.

Dipsomaniacs, habitual drunkards, and persons addicted to the use of narcotics or stimulants, so far as to have lost their power of self-control, are treated as lunatics to the extent that the probate court may sentence them to an inebriate asylum in the State, for not less than four, nor more than twelve months, except that dipsomaniacs shall be committed for three years.

DAKOTA.¹ (TERRITORY.)

In each organized county there shall be a board of three commissioners call Commissioners of Insanity, two of whom shall constitute a quorum. The Judge of Probate is chairman of the board. The other two members shall be appointed by the County Commissioners. One shall be a respectable practising physician, and the other a respectable practising attorney. In case of the temporary absence, or inability to act, of two of the commissioners, the Judge of Probate may call in a respectable physician or lawyer to act with him.

Application for admission to the Hospital must be made to the Commissioners in writing, sworn to, stating that the person on whose behalf the application is made is believed to be insane, a fit subject for treatment in the hospital, and living within the county. His legal settlement must also be given. The Commissioners shall at once investigate the case. They may require the alleged insane person to be brought before them, or not, as they deem best. They may provide for the suitable custody of the person pending the investigation, and their warrant for the purpose shall be executed by the sheriff or any constable. They shall hear testimony, and any citizen or relative of the alleged insane person may appear and oppose the application. Some regular practising physician, who may or may not be of their own number, shall be appointed to make a personal examination and report whether he finds the person insane or not. The physician shall endeavor to obtain from the relatives of the person and others correct answers to certain prescribed questions, twenty in number, relating to the patient's condition and the nature and duration of the disease. The interrogatories and answers are to be attached to the certificate which the physician is required to make and give to the Commissioners.

If the Commissioners find the person insane and a fit subject for treatment in the hospital, they issue a warrant authorizing the superintendent of the asylum to receive and keep the patient. The sheriff, or some other person appointed for the purpose, shall execute the warrant by delivering the patient, with a duplicate copy of the warrant and the physician's certificate, to the superintendent. If there is any relative or intimate friend of the patient who is a suitable person, he shall have the privilege of executing the warrant, if he requests it, but shall have no fee for his services. No female shall be taken to the hospital without some other female or some relative in attendance.

Patients may have special care in the hospital, if the same is agreed upon and paid for in advance. The relatives or friends shall have the privilege of paying any portion or all of the expenses of a patient.

If there is no room for a patient in the hospital, and he is not fit to go at large, the Commissioners shall provide for his care, either by a special

¹ Revised Codes of Dakota, 1877, p. 172. Laws of Dakota, 1879, pp. 68-86; 1881, pp. 98-102; 1883, pp. 298-305.

custodian to be paid for by the friends or relatives of the patient, or, if he is a public patient, they shall require him to be cared for at the expense of the county by the commissioners of the county or overseers of the poor. If there is no poor-house or more suitable place, the patient may be confined in the county jail, or he may be sent to an asylum out of the Territory to be designated by the Governor. The commissioners, on application made to them, may also make provision in the county for the care of persons who are insane, but for whom admission to the hospital is not sought. The commissioners, if any insane person in the county is suffering from want of proper care, on information of the same, shall investigate the matter and make needful provision. Persons cared for outside the hospital may be transferred there by authority of the commissioners, when a vacancy occurs, and without further inquest, when there has been an inquest within six months. No person supposed to be insane shall be restrained of his liberty except in the way already stated, unless it be temporarily to such extent as may be necessary for the safety of persons and property, until proper authority can be obtained. Any person shall be guilty of misdemeanor who treats an insane person with wanton cruelty.

If a person, confined in the hospital, is alleged to be not insane, the judge of probate, either of the county where the hospital is situated, or of the county where the patient has his settlement, upon an application alleging that the person is not insane and is unjustly deprived of his liberty, shall appoint a commission of not more than three persons, of whom one shall be a physician, and, if two or more are appointed, another shall be an attorney. They shall make examination and inquiry and report to the judge of probate. Such report shall be accompanied by a statement of the case signed by the superintendent. If the judge on this, and on the testimony offered, is satisfied the person is not insane he shall order his discharge. No commission shall be appointed in regard to the same party oftener than once in six months.

If a patient escapes from the hospital, the superintendent shall notify the commissioners of insanity of the patient's county, who shall, if he be found, have him discharged or returned to the asylum, unless for good reasons they have him cared for otherwise.

Any patient who is cured shall at once be discharged by the superintendent. The patient, if without means, shall be supplied with clothing and a sum of money not exceeding \$20, to be charged with the other expenses of the patient. A patient who proves incurable, but not dangerous, may be removed and taken care of by his relatives, with the consent of the trustees of the hospital. The friends and relatives of a patient who is not cured, and who is dangerous to be at large, may apply to the commissioners of insanity of the county where the patient belongs, and the commissioners may have the patient removed from the hospital and cared for within the county: provided, that no patient under a charge or conviction of homicide shall be discharged without the order of the trustees.

When patients are discharged from the hospital by the authorities thereof, without application therefor, notice shall be sent to the commissioners of insanity of the patient's county, and they shall provide for the care of the patient unless he is discharged as cured.

The expenses of an insane person may be collected by the county commissioners from his estate or from the person legally bound for his support.

If the hospital becomes crowded, discrimination shall be made in the reception of patients in the following order: (1) For cases of less than a year's duration. (2) For cases with favorable prospects of recovery. (3) For those for whom application has been longest on file. (4) Other things being equal, for the indigent.

DELAWARE.¹

There is no State insane asylum in Delaware. Insane persons are cared for in the county almshouse, or in some asylum in Pennsylvania selected by the Governor.

Indigent lunatics or insane persons are removed to a Pennsylvania hospital in the following manner: Whenever the relatives or friends of an insane person apply to the Chancellor of the State, and present a certificate of two practising physicians of the county where the insane person resides, setting forth the insanity, the cause, if known, and the necessity of better medical treatment than can be afforded in the county almshouse, the Chancellor shall, if satisfied of the insanity and indigency, recommend in writing to the Governor that such indigent insane person be removed to some asylum in Pennsylvania. But each county shall be entitled to have only five patients so supported at any one time. The expense of such support shall be paid for by each county.

When a patient thus placed is cured, or is so far recovered as to be fit for removal, or for one year has shown no marked improvement, the principal physician of the hospital shall so represent in writing to the Governor of Delaware. Thereupon, the Governor shall make a written request for the patient's discharge.

The Governor shall request a detailed report annually from the asylum respecting the condition and treatment of the insane from Delaware, and shall transmit it to the legislature.

If any patient thus placed in a hospital becomes entitled to any property, the income of which is sufficient for his support, the Chancellor shall appoint a trustee to take charge of the same. The Chancellor may, in his discretion, require that such insane person be retained in the asylum, paying his own expenses.

The trustees of the poor of the several counties, on the recommendation of the Chancellor and of the resident associate judge, shall cause any of the insane poor of their county, whether in or out of the almshouse, to be removed to any hospital for the insane in the United States, and they

¹ Laws of Delaware, Revised Code, 1874, pp. 25, 68, 233, 239, 240, 242-244, 650. Laws of Delaware, 1875, pp. 103, 104; 1881, p. 411.

shall make contracts for their admission and support. The expenses shall be paid in whole, or in part, by the said trustees, so long as they judge proper. If the insane person has any property, it shall be applied to defraying the expenses of his support, whether in the almshouse or elsewhere.

The overseer of the almshouse in each county shall receive and safely keep all insane persons committed to his charge by order of the levy court.

When any insane person is confined in jail, the levy court may issue an order that he be placed in the almshouse; and, if the sentence of any convict is respited on the ground of insanity, the convict may be removed to the almshouse under such order.

If, in a capital trial, the defendant is acquitted on the ground of insanity, the court may, on motion of the Attorney-General, order that the defendant forthwith be committed to the almshouse of the county where the case is tried, or of the county where the insane person has his residence, or the court may order that such person be placed in any lunatic asylum in the United States. The court may appoint a trustee to contract for his commitment and support. The expenses shall be paid by the county where the offense was committed, or where the insane person has his residence; but, if such insane person have property, it shall be applied to his support. Such insane person may be set at large by the court of general sessions of the peace and jail delivery of the county where the case was tried whenever they are satisfied that the public safety will not be thereby endangered; or the said court may order his removal from such asylum to the almshouse, either of the county where the act was committed, or of the county where he resided.

If a person becomes insane, pending a civil action, the court may appoint a guardian *ad litem*, or the action may be continued by a trustee.

FLORIDA.¹

It is the duty of each judge of the circuit court of the State, on suggestion that a person is insane, to issue a writ directing the sheriff to bring such person before him for examination. If it be found that such person is a lunatic or insane, the judge shall make such decree as is usual or necessary in such cases. If it appear that such insane person is destitute, the judge shall order him transported to the Asylum for the Indigent Lunatics of the State of Florida for care and custody; or he may, in his discretion, direct the said insane person to be delivered for custody and maintenance to any other person, who shall receive not more than \$150 per year for such maintenance.

¹ Digest of the Laws of Florida, 1822-1881, pp. 448, 747-750. Acts and Resolutions of Florida, 1883, p. 64.

The Comptroller, once in every six months, shall forward to the State Attorney of each circuit a list of the lunatics in the care of private persons in his circuit. The State Attorney shall cause an investigation of each case by the grand juries of the several counties, causing each of said lunatics to be brought before them. The grand jury shall make a report, a copy of which shall be sent to the Attorney-General and to the Comptroller. The Attorney-General, where he deems it proper, shall direct the State Attorney to institute proceedings before the judge of the circuit court, looking to the change of the custody of the said lunatic, or to his final discharge, or to his transfer to the State Asylum.

The physician in charge of the State Asylum may, when directed by the Board of Commissioners of State Institutions, receive into said asylum any lunatic, idiot, or insane person, whose friends, parents, or guardians are able and willing to pay for his care and support, at a rate to be fixed by the Commissioners.

When any person tried for an offence is acquitted by reason of insanity, and if the discharge or going at large of such insane person shall be considered by the court manifestly dangerous, the court shall order him committed to jail, or otherwise to be cared for as an insane person; or may give him into the care of his friends, on their giving security for his proper care; otherwise he shall be discharged.

GEORGIA.¹

The State Asylum is intended for the care of lunatics, idiots, epileptics, or demented inebriates. Inmates are divided into four classes: 1. Pay or pauper patients, residents of the State. 2. Pay patients, who are non-residents. 3. Insane penitentiary convicts. 4. Insane negroes, in certain cases. Citizens of Georgia have a preference over non-residents.

Resident pay patients are admitted upon authentic evidence of lunacy according to law, or by a certificate of three respectable practising physicians well acquainted with the condition of the patient, or a certificate from such physicians and two respectable citizens. Pay patients not resident in the State are admitted upon authentic evidence of insanity from a court having jurisdiction, or upon a certificate from their own State like that required in the State of Georgia, together with the certificate of the judge having jurisdiction, that the certificates of the physicians and other persons are genuine and entitled to full credit.

The court convicting a pauper of insanity shall certify the fact that he is a pauper. If he has any means, or becomes entitled to any property, it shall be applied, so far as it will go, to defraying his expenses. If

¹ The Code of the State of Georgia, 1882, §§ 331(5), 1341-1374, 1658, 1852-1864, 2735, 4299, 4666, 4673.

there is any one liable for his support, the amount expended may be collected of him. Otherwise he is supported at the expense of the State.

Upon the petition of any person, on oath, stating that another is liable, as being a lunatic, idiot, or person *non compos mentis*, to have a guardian appointed, or is a fit subject to be committed to the Lunatic Asylum, the Ordinary, upon proof that ten days' notice has been given to the nearest three adult relatives of such person, or that there is no such relative within the State, shall issue a commission directed to any eighteen discreet persons, one of whom shall be a physician, requiring any twelve of them, including the physician, to examine the person and hear witnesses if necessary, and make a return to the Ordinary, specifying under which, if either, of said classes they find the person to come. If they find him within either of said classes, the Ordinary shall appoint a guardian for him, or commit him to the Lunatic Asylum. There may be an appeal from this finding to the superior court of the county, where the issue shall be submitted to a special jury.

Guardians of insane persons are authorized to confine them or place them in the asylum, if necessary for their own protection or the safety of others. A guardian wilfully failing to do this, is liable for all injuries inflicted on others by his ward. When there is no guardian for an insane person, or the guardian, on notice, fails to confine his ward, and any person makes oath that such insane person should not longer be left at large, the Ordinary shall issue a warrant, and have the insane person brought before him on a day specified. Upon an investigation of the facts, he may commit such insane person to the Lunatic Asylum, and, if necessary, cause him to be temporarily committed to jail until he can be sent to the asylum.

If a patient in the asylum appears to be incurable, but at the same time harmless, he may be discharged by the trustees of the asylum, or remanded to the care of friends and relatives. Pauper patients shall not be discharged without proper clothing and a sum of money necessary to carry them to their residence or to the county from which they were sent.

If, before or after admission of a pay patient, resident or non-resident, by certificate, the alleged lunatic or his friend or relative makes a demand of the superintendent for a trial of the question of lunacy by jury, it shall be had without delay, according to law, in the county where the asylum is located. The like demand and trial may be had by all patients who have been convicted of lunacy, if the person demanding it, being a relative or friend, makes affidavit that he believes the alleged cause of commitment did not and does not exist, and that the conviction was obtained by fraud, collusion, or mistake. The same right exists also when there is an affidavit that the cause of commitment has ceased to exist, and there is a refusal by the superintendent to discharge.

Provision is made for the commitment, admission, and care of inebriates, but only as pay patients.

Insane negroes, residents of the State, are to be committed upon the certificate of the Ordinary as to their condition mentally and pecuniarily.

Whenever there is an application for commitment, unattended by the requisite evidence, the superintendent may receive the person for a rea-

sonable time, provided payment is made in advance for his maintenance. If a person who has been once properly received as a patient has been absent so long as three months, he cannot be received back again without going through the regular process provided by law.

If a penitentiary convict becomes so afflicted as to be a fit subject for the asylum, he shall be received therein upon the direction of the Governor of the State, or, if accompanied with the certificate of the physician of the penitentiary, and of the principal keeper thereof, stating the fact. Such convict shall pay for his support, if he has means. If he recovers before his term of service has expired, he shall forthwith be sent back to the penitentiary.

When a person has been acquitted of a capital crime on the ground of insanity, and is committed to the asylum, he shall not be discharged except by special act of the legislature. If the crime is not capital, he may be discharged by order from the Governor. If sentence was suspended because of insanity, the superintendent of the asylum shall inform the presiding judge of the court where he was convicted in case of recovery.

If a convict sentenced to death becomes insane, the sheriff shall summon a jury of twelve men to inquire into the fact. If the jury find him insane, the presiding judge of the district shall certify the fact, and the convict shall be received into the lunatic asylum. If the patient recovers, he shall be removed to the jail, and a new warrant for his execution issued.

When the plea of insanity is filed, the court shall cause that issue to be first tried by a special jury, and, if found true, the defendant shall be committed to the insane asylum, and shall remain there until discharged by the general assembly.

IDAHO.¹ (TERRITORY.)

There is no provision as yet for an asylum for the insane in the Territory of Idaho. It is made the duty of the board of county commissioners in each county to take care of, and provide for, the indigent sick, idiotic, and insane of the county under the regulations of law.

Whenever it shall be represented to the probate judge, upon petition, under oath, by any relative or friend of any insane person, or of any person who is mentally incompetent to manage his property, the judge shall cause not less than five days' notice to be given to the supposed insane person of the time and place of hearing the case, and shall cause such person, if able to attend, to be produced before him at the hearing. If, on examination, it appears to the court that the person in question is incapable of taking care of himself and his property, the judge shall

¹ Revised Laws of Idaho, 1874 and 1875, pp. 310-318, 428, 430, 447-449, 526. Laws of Idaho, 1881, §§ 170, 220, 529, 530, 898.

appoint a guardian of his person and estate. Every guardian so appointed shall have the care and custody of the person of his ward, and the management of his estate.

If, in a capital case, after judgment of death there be good reason to suppose the defendant has become insane, the sheriff, with the concurrence of the judge who rendered judgment, may summon a jury of twelve persons to inquire into the question of the supposed insanity, and shall give notice to the district attorney. If insanity be found, the sheriff shall suspend the execution until he receives a warrant from the Governor or the judge of the court by which judgment was rendered. The Governor may appoint a day for the execution of the judgment in case of recovery.

When an indictment is called for trial, or a person upon conviction is brought up for judgment, if there is a doubt as to his sanity, the court shall order the question to be submitted to the regular jury, or may order a jury to be summoned, in the way above described, to try the question. If the jury find that he is insane, the trial or judgment, as the case may be, shall be suspended until restoration to sanity; and the court, if it deem a discharge dangerous to the public peace or safety, may order a commitment to the custody of some proper person, who must detain the prisoner until he becomes sane. Upon his recovery, notice must be given to the sheriff and district attorney, and the sheriff shall, without delay, place him in proper custody until he be brought to trial or judgment, or otherwise legally discharged. The expenses of his care and custody shall be borne, in the first instance, by the county where the indictment was found; but the amount may be recovered back from the estate of the defendant, or from any person or place bound to maintain him.

ILLINOIS.¹

Preference is given to recent and curable cases, and also to patients who are violent or otherwise troublesome, when the asylums are crowded. The Board of Commissioners of Public Charities shall visit the insane hospital and other places where the insane are confined and exercise a power of supervision. They may examine persons under oath, and they shall report annually to the Governor.

All patients, residents of the State, may be kept free of charge (each county paying for the support of its insane patients). If a patient is able and willing to pay for his support, he may do so. If there is room in the hospitals, residents of other States may be admitted as patients, upon the payment of the cost of their treatment.

When any person is supposed to be insane, a petition is sent to the

¹ Revised Statutes of Illinois, Cothran's Annotated Edition, 1881, pp. 197-210, 363, 507, 508, 950-955, 1076. Laws of Illinois, 1881, pp. 151-153.

judge of the county court by a near relative or any respectable person for proceedings to inquire into the alleged insanity. On the filing of such petition, the judge shall have the alleged insane person brought before him at a time and place appointed for the hearing of the matter. At the time fixed for the trial, a jury of six persons, one of them a physician, shall be impanelled to try the case. The jury shall return a verdict showing the facts of the case, stating whether the person is insane, and, if so, whether fit to be sent to a State hospital. If the person is found to be insane, the court shall enter an order for his commitment to a State hospital. If the patient is not a pauper, his friends have a choice as to the hospital. The clerk of the court shall apply for the patient's admission, and, on ascertaining that he can be received, shall issue a warrant to the sheriff or some suitable person (preferring a relative, when so desired), ordering the insane person to be conveyed to the hospital. The warrant must be endorsed by the superintendent of the hospital, acknowledging the receipt of the patient and returned into court. The court, if it is necessary, pending the trial or while waiting for admission, may make such order as the case may require, for the temporary restraint of the supposed insane person, by a sheriff, jailer, or other suitable person. Idiots and persons with infectious diseases are not admitted to the hospitals.

The judge of the county court is to see that pauper patients are removed from the hospital when required by the trustees. Patients not paupers are removed by their friends, who must give bonds to do so upon admission. If a patient is not removed as required, the superintendent may send him to the place from which he came.

Whenever application is made from a patient not residing in the State, if the superintendent is of the opinion that the case is probably curable and there is room at the time in the hospital, the trustees may admit the patient, taking a bond for the maintenance of the patient, and for his removal when required. No person shall be detained in any asylum or hospital for the insane without the order of a court of competent jurisdiction, or the verdict of a jury.

When any patient shall be restored to reason, he shall have the right to leave the hospital at any time, and, if detained contrary to his wishes, he shall have the privilege of a writ of habeas corpus on his own application, or on that of some one in his behalf. If a superintendent or officer of an asylum improperly receives or detains a patient, he is liable to fine not over \$500 or to imprisonment for one year, and also by civil process for damages for false imprisonment.

If, upon the trial of a person charged with crime, it appears that the crime was committed by the person while insane, and the jury also find that the person has not entirely and permanently recovered, the court shall cause the person to be taken to a State hospital for the insane, and there kept until fully recovered. But if the jury find that the person has entirely recovered from such insanity, he shall be discharged from custody.

A person who becomes insane after the commission of a crime or misdemeanor, shall not be tried during the continuance of the insanity; and if after trial and verdict he becomes insane, judgment shall be arrested. If, after judgment and before execution, the defendant becomes insane,

then, in case the punishment be capital, the execution thereof shall be stayed until the recovery of the person from the insanity. In all these cases, the court shall impanel a jury to try the question whether the accused be at the time insane.

If a convict in the penitentiary becomes insane, he shall be removed to a State hospital for the insane. If he recovers before his term of imprisonment has expired, he shall be returned to the penitentiary.

INDIANA.¹

Patients are entitled to treatment, at the expense of the State, in the State asylums; but county asylums may also be provided by the county boards. Before commitment, a respectable citizen of the proper county shall, upon oath, make a statement, in writing, before a justice of the peace of the county, answering as fully as possible twenty-two prescribed interrogatories in regard to the alleged insane person's condition and history. The justice, together with another justice of the peace, and a respectable practising physician who resides in the county, and is not the medical attendant of the alleged insane person, shall immediately visit and examine the patient in relation to his mental condition. The justice of the peace shall then order the clerk of the circuit court of the county to summon the regular medical attendant of the patient, if there be one; also the person making the statement, and the persons mentioned by him in his statement as witnesses; also the selected medical examiner, and any other persons supposed to be cognizant of facts relating to the case. A hearing shall then be had, the two justices of the peace presiding. The medical attendant shall make, on oath, a written statement of the case. The medical examiner shall also make a statement, in writing, under oath, in prescribed form, saying that he has heard all the evidence, and that, in his opinion, the person is, or is not, insane. The justices of the peace shall then make a statement, in writing, if, in their judgment, the person is insane, and a fit subject for treatment in an asylum. The papers and statements are all filed with the clerk of the circuit court of the county, who forthwith applies to the superintendent of the Hospital for the Insane for the admission of the patient, accompanying the application with certified copies of the statements and certificates, unless the proper friends of the insane person prefer to place him in a private asylum within the State, when a written permission, under the seal of the court, shall be given them to do so, at their own expense.

The superintendent of the hospital, on receiving the application of the clerk, shall determine from the same whether the case is recent and pre-

¹ Revised Statutes of Indiana, 1881, §§ 190, 1107, 1764, 1765, 2758-2782, 2835-2879, 5142-5150, 6337. Acts of Indiana, Downey's edition, 1883, pp. 1651, 1652, 1749-1752.

sumably curable, or chronic and less curable, or idiotic and incurable. If the case is recent and curable, the superintendent shall grant admission; if the case be chronic, whether curable or incurable, admission shall be granted, provided there be room. In the selection of chronic cases, each county is to have its due proportion, according to its population, and priority of application shall also be considered. Rejected applications may be renewed at any time within six months from the date of the inquest. No idiots are received or kept in the hospital. The clerk of the circuit court, on receiving notice that the patient will be admitted, shall have him taken to the hospital by the sheriff, or, if so desired, by some suitable person who shall be a friend or relative of the insane person. The clerk shall see that there is a proper supply of clothing for the patient, and, if the same is not otherwise furnished, it shall be paid for by the county, as also the funeral charges, if the patient dies at the hospital. Until the patient can be admitted into the hospital, the clerk shall have him taken care of, and, if necessary, may direct his confinement in the county jail.

Patients restored to health are discharged by the superintendent. Incurable and harmless patients shall be discharged when it is necessary to make room for recent cases; but all dangerous persons must be retained in the hospital. The clerk of the circuit court of the county from which the patient was sent, on notice that a patient not restored is to be discharged, shall issue a warrant to the sheriff to remove the patient to the proper township. Patients may be discharged, uncured, to such friends as are ready and able to take them.

A patient once admitted to the hospital, or to any asylum in the State, and discharged, shall not be again admitted, except upon the affidavit of a respectable practising physician of the county where the patient resides that he knows the patient; that he has been adjudged insane; that he has been in a hospital; that he is insane, and a proper subject for treatment. He must state the reasons for his opinion. The clerk of the court shall also make a certificate that the adjudication of insanity is recorded in his office. Certified copies of these certificates will serve for an application for admission to the Hospital for the Insane or to a private asylum. If a person has been adjudged insane, and has not been admitted to the hospital within six months from the date of the inquest, the same proceedings as in the case of a recommitment must be had. A transcript of the papers filed at the inquest must be sent to the superintendent, unless previously transmitted.

Any person committed as insane may have a writ of habeas corpus issued, but not oftener than once in three months.

When a patient is discharged as cured, the superintendent shall furnish him with clothing and a sum of money not exceeding \$20, unless otherwise supplied.

When complaint on oath is made before any justice of the peace that any person is insane and dangerous to the community if allowed to remain at large, such justice shall issue a warrant for the apprehension of said insane person, and shall summon such witnesses as may be demanded by either party. The justice shall summon a jury of six reputable householders, in no way related to, or personally interested in, the

alleged insane person or his affairs, who shall be sworn to impartially try the issue. If the jury, after hearing the evidence and examining the alleged insane person, who is to be personally present at the trial, finds that he is insane and dangerous to the community if suffered to remain at large, the justice shall appoint some resident of the county to take charge of and confine him. The person in charge shall be paid by the county, and may be changed by the county commissioners, or, if the patient is ill-treated, by the justice of the peace. The proceedings of the jury and justice of the peace must be reported to the circuit court, and at the next term thereof the issue shall be tried again by a jury of twelve persons. If they also find the person insane and dangerous, the court shall confirm the appointment of the person in charge of the insane person, or appoint some one in his place. Such insane person may be sent to the Hospital for the Insane, if a fit subject therefor. The cost of adjudging such a person insane and of caring for him shall be paid out of his property, if he has sufficient; otherwise by the county. The court shall appoint a guardian to care for such property as is subject to the payment of his expenses. If the jury before the justice of the peace find in favor of the alleged insane person, any one may appeal to the circuit court on giving a prescribed bond.

When a person tried for a public offence is acquitted on the sole ground that he was insane at the time the offence was committed, the fact of insanity shall be found by the jury or by the court, and the defendant shall not be discharged, but shall be proceeded against upon the charge of insanity, in the manner prescribed for the commitment to the hospital, except that no preliminary statement in writing shall be required.

IOWA.¹

There shall be in each county a board of three commissioners of insanity, including the clerk of the circuit court, who shall be clerk of the board. The other two shall be appointed by the judge of the circuit court, and shall be, one of them a respectable practising physician, and the other a respectable practising lawyer. Temporary vacancies in the board may be filled either by the judge of the circuit court, acting as a commissioner, or by the appointment of a physician or lawyer. The commissioners have cognizance of all applications for commitment to the hospital, or for the safe keeping of insane persons, except in cases otherwise specially provided for. Applications for commitment to the hospital must state upon affidavit that the person is believed by the informant to be insane and a fit subject for treatment in the hospital, and must include information as to his legal settlement. The commissioners

¹ Revised Code of Iowa, Miller, 1880, pp. 374-389; p. 1038, § 4472; p. 1044, §§ 4504, 4505; pp. 1061, 1062. Acts and Resolutions, State of Iowa, 1882, pp. 58, 84.

may examine the informant under oath, and, if they find there is cause therefor, may proceed to an investigation. They may have the alleged insane person brought before them, if advisable, and may provide for his suitable custody pending the investigation. They shall hear such testimony as is offered for and against the application, and shall appoint some regular practising physician of the county to make a personal examination of the patient and report thereon. He may, or may not, be of their own number. He shall make a statement certifying whether or not he finds the person insane, and, as a part of his statement, shall obtain, so far as is possible, correct answers to twenty prescribed interrogatories touching the condition and history of the patient.

The commissioners shall make a finding whether or not the person is insane and a fit subject for the hospital, and where his legal settlement is, if ascertained. If the case is a proper one, they shall order the person to be committed to the hospital, unless an appeal from their decision is taken to the circuit court. If an appeal is taken, the person shall be discharged from custody pending the appeal, unless the commissioners find that the person cannot with safety be allowed to go at large, in which case they shall provide for his care. If, upon the trial in the circuit court, the person is found to be insane, the court shall order him to be committed to the hospital. If there is no appeal, or if, on appeal, the patient is ordered to be committed, a warrant shall issue, in the one case from the commissioners, and in the other from the clerk of the court, and the sheriff or some person appointed shall deliver the patient to the superintendent of the hospital, and along with him the physician's certificate and the finding of insanity. If any relative or friend who is a suitable person request it, he shall have the privilege of executing the warrant. If the patient is a female, there must be some other female or some relative in attendance. The superintendent shall acknowledge the receipt of the patient by a return of the warrant, which shall then be filed in court.

If any person found to be insane and a fit patient for the hospital cannot at once be admitted for want of room, or for other cause, the commissioners shall have such patient suitably provided for otherwise, either as a private or a public patient. Those shall be treated as private patients whose friends or relatives will provide for them without public charge. In such cases the commissioners shall appoint some suitable person a special custodian to restrain and care for the patient. In the case of public patients, care shall be provided by the board of supervisors at the expense of the county. If there is no poor-house or more suitable place, such patients may be confined in the county jail in charge of the sheriff. The commissioners may also provide for the care and restraint within the county of insane persons, either public or private, for whom admission to the hospital is not sought. On information that any insane person is suffering for want of proper care, the commissioners shall make inquiry and, if need be, provide for the case. Persons who have been cared for outside of the hospital may, at any time within six months after the inquest, be transferred to the hospital simply on application, unless the commissioners deem further inquest advisable.

On the application of the relatives or friends of an insane person in

the hospital, who is not cured, the commissioners may authorize his discharge if proper provision is made for his care, but no one under a criminal charge or conviction shall be discharged without the order of the district court and notice to the district attorney. If an insane person cared for within the county out of a hospital is shown to be no longer in need of care or restraint, the commissioners shall order his immediate discharge. Any patient in the hospital who is cured shall be immediately discharged by the superintendent, who shall furnish him with suitable clothing and money not exceeding \$20, unless he is otherwise supplied. The relatives of any patient who is found incurable, but not dangerous, may take charge of and remove him with the consent of the board of trustees of the hospital.

The trustees, whenever it is necessary to make room, may order the removal of incurable and harmless patients, and the commissioners of the counties where they belong shall at once provide for their care.

If for want of room, or for other cause, it becomes necessary to discriminate in the reception of patients, a selection shall be made in the following order: (1) Recent cases (of less than one year's duration). (2) Chronic cases (of more than one year's duration), presenting the most favorable prospects of recovery. (3) Those for whom application has been longest on file. (4) Other things being equal, the indigent.

If a patient escapes, the superintendent shall cause search to be made, and shall notify the commissioners, who, if the patient is found, shall have him returned.

Each county shall pay the expenses of its own patients, and the State shall pay for patients who have no settlement. Patients in the hospital may receive special care, if their friends make an agreement with the superintendent and pay for the same. The relatives or friends of any patient in the hospital shall have the privilege of paying any portion or all of the expenses of such patient. If an insane person has property, his estate is liable for his support, but the board of supervisors, if they deem it a hardship to take such estate, may forbear to do so, to such extent as they think just and reasonable.

There shall be a visiting committee of three persons, of whom at least one must be a woman, who shall have full power to visit the hospitals, send for persons, examine witnesses under oath, discharge or prosecute employes for cause, and correct abuses. Inmates shall be allowed to write to this committee once a week and to receive letters from them, and the same shall not be opened by the superintendent or other officers. The committee shall annually report to the Governor.

If it is alleged on oath that a patient is not insane and is unjustly deprived of his liberty, the judge of the district or circuit court of the county in which the hospital is situated, or of the county in which the patient has his settlement, shall appoint a commission of not more than three persons, one of whom shall be a physician, and, if two are appointed, one a lawyer. They shall go to the hospital, see the patient and examine the records and the officers, in such a manner as they deem most prudent. They shall then report to the judge the result of their inquiries, and shall get for him a written statement of the case made by the superintendent. If the judge finds the person not insane, he shall order his

discharge. This commission shall not be repeated oftener than once in six months in regard to the same party, nor appointed within six months of the time of the patient's admission.

If a person charged with a crime, or under indictment, is found by the commissioners to have become insane, and to be still insane, they shall have him sent to the hospital to be kept by the superintendent. When any such lunatic is restored, he shall be again returned to jail to answer to the offence alleged against him.

If a defendant be acquitted on the ground of insanity, the court must, if his discharge is considered dangerous to the public, order him to be committed to the insane hospital, or retained in custody, until he becomes sane.

If a person, after conviction of a crime, becomes insane, the Governor may pardon such lunatic, or may suspend execution of his sentence and order his removal to the hospital, there to be kept until restored to reason.

If a reasonable doubt arises as to the sanity of a defendant, either before trial or after conviction, the court must have a jury impanelled to inquire into the fact, the other proceedings in the case meantime to be suspended. If the jury find the defendant insane, the court, if it deems his discharge dangerous, may order his commitment to the insane hospital. If he there recovers, he shall again be put in the proper custody until brought to trial or judgment, or legally discharged. Any person who in any way treats an insane person with wanton severity, or harshness, or cruelty, or abuse, shall be guilty of a misdemeanor, and shall be liable to an action for damages.

KANSAS.¹

The superintendent of one of the two asylums in the State is designated by the trustees to receive all applications for commitment, and is given authority to determine to which asylum the patient shall be committed.

If information in writing is given to the probate court that anyone in its county is a lunatic, or a person of unsound mind, or an habitual drunkard, and incapable of managing his affairs, the court, if satisfied that there is good reason, shall cause the facts to be inquired into by a jury. It is the duty of any judge of the probate court, justice of the peace, sheriff, coroner, or constable, who discovers a person of his county to be of unsound mind, to make application to the probate court, as above stated.

At the time fixed for trial, a jury of six persons, one of them a physician in regular practice and good standing, shall be impanelled, and the

¹ Compiled Laws of Kansas, Dassler, 1879, pp. 61, 108-111, 529-537, 584, 762, 763, 883. Laws of Kansas, 1881, p. 78.

alleged insane person may be represented by counsel. The jury shall render their verdict in writing, embodying the substantial facts in a form prescribed, and the physician upon the jury shall make a brief medical statement of the case, so far as ascertained, and of any other circumstances of importance. The verdict shall be recorded at large by the probate judge. If it appear that the person is insane and fit to be sent to the insane asylum, the court shall make an order for his commitment; if "of unsound mind, or an habitual drunkard, and incapable of managing his affairs," it shall appoint a guardian of his person and estate. The court may, if just cause appears at any time during the term at which the inquisition is had, set the verdict aside, and cause a new jury to be impanelled to try the case. When two juries concur in any case, the verdict shall not be set aside. If it shall be found at any time by the court, either with or without a jury, as may seem proper to the court, that the person is restored to his right mind, he shall be discharged from care and custody.

If any person, by lunacy or otherwise, shall be furiously mad, so as to be dangerous, it shall be the duty of his guardian, or other person under whose care he may be, to confine him in some suitable place until proceedings can be commenced in the probate court, which shall make such order as may be proper for the support and safe keeping of such person. If there is no guardian or person in charge to care for him, any judge of a court of record, or any two justices of the peace, may cause him to be apprehended, and may employ some one to confine him until the probate court shall make some order in regard to him.

When a probate judge desires to commit an insane person to the State Insane Asylum, he shall send a statement, in a prescribed form, to the superintendent, inquiring whether the patient can be admitted. Upon receiving a reply that the patient will be received, the judge shall issue his precept to the guardian, commanding him to deliver his ward into the custody of the superintendent, and at the same time give to the steward of the asylum a warrant directing him to maintain the patient. The warrant states also who is to bear the expenses, whether the county or the guardian, or some one else. To determine who is to bear the expense, the probate judge shall make an examination of the property, and, if he finds that the insane person has no estate, or not more than enough to support his family, shall make a certificate to that effect, and the expense of his support shall be borne by the county.

Patients supported at private expense may be placed in the asylum upon application to the superintendent, if the case comes within the provisions of the asylum by-laws, and if there is room in the asylum. In every such case, the superintendent shall be presented with a certificate, signed by at least one practising physician of the county, stating that he has examined the patient, and believes him to be insane. There shall also be presented a certificate of the probate judge of the proper county, stating that he has appointed some one (naming him) as guardian of the patient. Questions as to the history of the case must be filled out, and forwarded to the superintendent.

The person or court placing a patient in the asylum may remove such patient at any time, and the superintendent, under direction of the

trustees, may discharge any patient in accordance with the by-laws. No idiot or person with a contagious disease shall be committed to the asylum.

Destitute insane persons, who have been refused admission to the asylum because of lack of room, are supported at the expense of the State.

When a patient is to be discharged, the probate judge of the proper county shall be notified. If he is not restored to sanity, the judge shall issue his precept to the guardian of such person to remove him from the asylum to the proper county. If he is recovered, the steward may, under direction of the superintendent, send him, at the expense of the county or person charged with his maintenance.

If a convict in the penitentiary becomes insane, the warden shall notify the prison physician, who shall, if he deem the statement true, summon to his assistance the nearest two resident physicians, and proceed to make inquisition of the facts charged. If they find the person insane, they shall so certify to the warden, who shall cause the insane person to be removed to the Asylum for the Insane, there to be kept until he recovers, or is discharged by expiration of his sentence, by pardon, or by reprieve. If he recovers before his term has expired, he shall be returned to the warden.

In case of a person convicted and sentenced to death becoming insane, such person shall not be executed until the Governor shall be satisfied, upon the oaths of twelve good and true men, to be named and summoned by the warden, upon proper inquiry and investigation being made, that such insanity no longer exists.

KENTUCKY.¹

Each of the three asylums receives the insane of its own district, but patients may be transferred from one to another, in case any one is crowded. Negroes shall be sent only to the Eastern and Central Asylums. It is the duty of the Governor to see that each asylum has its due share of patients.

If anyone be thought of unsound mind, it shall be the duty of some court of the county in which he resides, having general equity jurisdiction, upon the application of the attorney for the commonwealth, or, if he be absent, of the county attorney, to cause an inquest by a jury to be held in open court to inquire into the fact. Inquests may be held by a judge or chancellor, by the presiding judge of a county, the judge of a city court, or police judge, when no court of general equity jurisdiction is in session. The court shall appoint some member of the bar to represent

¹ General Statutes of Kentucky, 1881, pp. 534-541, 642-652. Acts of Kentucky, 1881, p. 15.

the rights of the person alleged to be of unsound mind. It shall also be the duty of the attorney for the commonwealth, or for the county, to prevent any persons being improperly found of unsound mind. The jury shall take a formal oath to find truly whether the person is of unsound mind, and, if so, whether he is an idiot, or a lunatic, what his residence is, and what property he or his parents have. If the judge who presides is of the opinion that the verdict is not sustained by the evidence, or is against law, he shall set it aside and award a new inquest. The person alleged to be of unsound mind must be in court personally before the jury, unless it shall appear by the oath or affidavit of two physicians that they have personally examined the person, and that they verily believe him to be an idiot or lunatic, as the case may be, and that his condition is such that it would be unsafe to bring him into court. Every fifth year, in the case of idiots, this inquest must be repeated to ascertain whether any change has taken place in their condition.

All lunatics may be sent by order of the court to the lunatic asylum. The officer who presides at the inquest may make all orders for the security of the estate and care pending the inquest of the person found of unsound mind. The papers pertaining to the inquest shall be filed with the clerk of the court having jurisdiction, and, at the next term thereof, a committee shall be appointed and such other orders made and taken as are necessary. If a person is found a lunatic, the officer who presides at the inquest shall draw up a brief history of the patient's case embracing certain points which are enumerated in the Statutes.

If the patient is delivered at the hospital within six months after the first attack of his lunacy, and the fact is certified to by the circuit judge of the district, neither the county nor any relative shall be chargeable with the cost of his detention for one year in the asylum, nor shall a relative in such case be chargeable with the cost of his transportation.

Immediately on notice that a person has been ordered into confinement at the asylum the superintendent shall send for him; but where the safety of the lunatic or others seems to require it, the court may order the patient to be carried to the asylum immediately without waiting for his being sent for.

Idiots shall not be sent to the asylums, unless the jury find that they are so dangerous that they cannot be safely kept by a committee within the county. Pay patients from other States may be admitted, but not when their reception will in any way crowd the asylums so as to delay the reception of patients resident in Kentucky.

No private patient who has not been found to be insane by regular inquest shall be received into either asylum. Nor shall any patient be discharged as cured, or delivered into the custody of friends, if his friends have placed him in the asylum, except by permit of the superintendent and two commissioners.

A cured pauper, on discharge, shall have a good suit of clothes and be furnished with money not exceeding \$20.

In order to relieve the asylum from having too many patients, all pauper idiots, epileptics, and harmless, incurable lunatics shall be returned by the asylum to their friends or to the several counties from which they were sent. A commission, consisting of the president of the

board of commissioners of each asylum, the superintendent and one other of the commissioners, shall investigate and determine what patients are fit to send back. Such patients are to be taken care of either by their county committee, or by their friends, or at the expense of the State, as the case may be.

Whenever it is suggested by affidavit to the court having jurisdiction, that a person found of unsound mind has been restored to his proper senses, or that the inquest was false or fraudulent, the court shall forthwith direct the facts to be inquired into by a jury in open court and make all necessary orders in the premises.

Any patient charged with crime who is cured of his insanity shall be delivered to the keeper of the penitentiary or jailor of the county, as the case may require.

LOUISIANA.¹

Whenever it shall be made known to the judge of the district or parish court, by the petition and oath of any individual, that any lunatic or insane person within his district ought to be sent to, or confined in, the Insane Asylum of the State, said judge shall issue a warrant to bring the insane person before him, and, after proper inquiry, if, in his opinion, he ought to be sent to the asylum, he shall have him taken there by the sheriff.

The board of administrators of the asylum shall have authority to receive insane persons not sent by a district or parish judge, on such terms as they may deem fit, and money so received shall be applied to the support of the institution.

All persons received in the asylum as insane shall be charged not less than \$10 a month, unless the police jury of the parish from which the insane person came, a municipal council, if from a city or town, or clerk of the court, shall certify that said person is in indigent circumstances. The clerk of the court, before granting such a certificate, shall summon witnesses, and make an examination, and give or refuse the certificate, as each case may require.

Whenever any person arrested to answer for any crime or misdemeanor, before any court of the State, shall be acquitted by the jury, or shall not be indicted by the grand jury, by reason of the insanity of such person, and the discharge of such person shall be deemed by the court to be dangerous, the court shall commit such person to the State Insane Hospital, or to any similar institution in any parish within the jurisdiction of the court, there to be detained until restored to his right mind or duly discharged. The physician of the asylum shall examine the lunatic

¹ Voorhies' Revised Statutes of Louisiana, 1876, pp. 427, 462-466.

or insane person sent to the asylum by such a judge, and if, in his opinion, the person is only feigning insanity, being a person charged with a felonious crime, he shall report to the board, who shall investigate the facts, and if a majority think he should not be admitted, he shall be sent to jail, and the proper authorities notified; and also if the prisoner is received and becomes sane while in the asylum.

Any person attempting or assisting the seduction or abduction of a patient from an insane asylum shall be liable to a fine not less than \$50 and not exceeding \$500, or to imprisonment from one to six months, or to both, at the discretion of the court.

MAINE.¹

The number of patients who can be accommodated in the hospital shall be apportioned among the towns according to their population. If the hospital is likely to be crowded, a preference shall be given to those towns which have not already their full proportion of patients accommodated.

The municipal officers of towns shall constitute a board of examiners, and, on complaint in writing of any relative or justice of the peace of their town, they shall immediately inquire into the condition of any person therein alleged to be insane. The evidence, and a certificate of at least two respectable physicians, based upon due inquiry and personal examination of the person to whom insanity is imputed, shall be required to establish the fact of insanity. A certified copy of the physicians' certificate shall accompany the person to be committed. If the board of examiners think such person insane, and that his comfort and safety, and that of others interested, will thereby be promoted, they shall forthwith send him to the hospital, with a certificate stating his insanity and his residence, and directing the superintendent to receive and detain him. The examiners shall keep a record of their doings.

Any person aggrieved by the decision of the board of examiners, for or against insanity, may appeal therefrom, by claiming the appeal within five days, naming a justice of the peace and quorum on his part, and appointing a time within three days thereafter, and a place in such town or an adjoining town for the hearing; the board of examiners shall select another justice of the peace and quorum.

If the municipal officers applied to in the first instance neglect for three days to examine into and decide a case, or if the two justices selected on appeal neglect for three days to decide the appeal, complaint may be made by any relative of the insane, or by any respectable person,

¹ Commissioners' Report on Revision of the Laws of Maine, 1881, pp. 60, 956, 1125, 1126, 1155, 1163-1173. Special Acts and Resolves, 1883, p. 155.

to two justices of the peace and quorum, and the justices selected in either of the above modes shall summon testimony, and hear and decide the case. If they find the person insane, and the case a proper one, they shall make a certificate for his commitment to the hospital. Such justices shall keep a record of their doings. When such justices order a commitment, the municipal officers of the town where the insane person resides, or such other person as the justices direct, shall attend to the carrying out of such order.

The officers ordering the commitment of a person unable to pay for his support may certify to the trustees that fact, and that he has no relatives able and liable to pay for it. In such cases the State shall pay \$1.50 a week for his board, and the balance shall be paid by the patient, or by the town where he resides.

Parents and guardians of insane minors, if of sufficient ability to support them in a hospital, shall, within thirty days after an attack of insanity, send them to the State Hospital, or to some other hospital for the insane, without any legal examination. All other persons shall be subject to examination. Any town paying for the commitment and support of an insane person may receive the amount from him, if he has property, or from the persons legally liable for his support.

When any man, or any unmarried woman of twenty-one years of age, is sent to the Hospital for the Insane, the municipal officers of the town, when they think it advisable, may apply to the probate judge, and have a guardian appointed to care for any property that he or she may have, and provide for the support of the insane person and family.

Patients who have no means of their own and are without relatives liable for their support, if they belong in towns having less than two hundred inhabitants, shall be supported in the hospital at the expense of the State.

When any friend, person, or town, liable for the support of a patient who has been in the hospital six months, not committed by order of the Supreme Judicial Court, nor afflicted with homicidal insanity, thinks that he is unreasonably detained, he may apply to the municipal officers of the town where the insane person has his residence, and they shall inquire into the case and summon testimony, and their decision shall be binding on the parties. If such application is unsuccessful, it shall not be made again until the expiration of another six months.

At the annual meeting of the trustees, they, with the superintendent, shall make a particular examination into the condition of each patient and discharge any one so far restored that his comfort and safety, and that of the public, no longer require his confinement. The superintendent, at each monthly visit of the trustees, shall report to them the name of any inmate who was idiotic at the date of his commitment, and of any inmate who has become so imbecile as in his judgment to be beyond cure, and, if he thinks such inmate may be discharged with safety to himself and to the public, the trustees shall order his discharge, and cause him to be removed by the town by which he was committed. If any person appears to have been unlawfully committed, the superintendent shall report in like manner.

The Governor shall appoint a committee of visitors, consisting of two

members of the executive council and one woman, who shall make visits as often as once a month, and shall correspond with the patients, and shall report all abuses and ill-treatment, and see that the same are properly dealt with. If the committee of visitors shall become satisfied that any inmate is wrongly committed or detained, they shall apply to the proper court for a writ of habeas corpus, and have the question determined whether such inmate is a proper subject for custody and treatment. But this shall not apply to the case of any person charged with, or convicted of, crime and duly committed by order of court.

When any person is indicted for an offence, or is committed to jail on a charge thereof, any judge of the court before which he is to be tried, when he is notified that a plea of insanity is, or will be, made, may order such person into the care of the superintendent of the insane hospital, to be detained and observed by him until the further order of the court, that the truth or falsity of the plea may be ascertained. Every such person so committed shall be discharged by the superintendent if recovered, if not sent for by the court during the next term thereof after his commitment.

When the grand jury omits to indict, or a traverse jury acquits, on account of the insanity of the accused, the court may commit the person to the insane department of the State Prison, or to the insane hospital. If committed to the insane department of the State Prison, he shall be discharged only on satisfactory proof that his discharge will not endanger the peace and safety of the community. If he is discharged and again becomes insane, any judge of the Supreme Judicial Court may recommit him to the insane department of the State Prison, or to the insane hospital. If committed in the first instance to the insane hospital, he may be discharged by any judge of the Supreme Judicial Court, if his discharge will not endanger the community; or the judge may, on application, commit him to the custody of any friend who shall give bonds to the Probate Judge of Kennebec County to keep such insane person safely and pay for all damage he may do. If such person again becomes dangerous, any judge of the Supreme Judicial Court may recommit him to the insane hospital.

When a convict is thought insane, the warden or jailor shall notify the Governor, who shall appoint two or more skilful physicians to investigate the case. If such inmate is found insane, he shall be sent to the insane hospital, to be kept there until he becomes of sound mind. If he recovers before the expiration of his sentence, he shall be returned to prison. If insane convicts prove incurable and likely to have a deleterious influence on the other patients of the hospital, the Governor and Council may remove them to the insane department of the State Prison.

If an insane person is arrested on civil process, a writ of habeas corpus may be had to obtain his discharge.

MARYLAND.¹

Each county is allowed in the insane hospital its due share of inmates in proportion to its population. Pay patients, to a number not exceeding seventy-five at any one time, may be received. Lunatics and insane persons are also provided with accommodations and support in the county almshouses, and in the almshouse of the city of Baltimore. A court of equity may, on the application of the trustee of a person *non compos mentis*, if satisfied that it is necessary and proper to confine such person, direct that he be sent to any hospital in the vicinity of the city of Baltimore, there to remain until the further order of the court.

When any person is alleged to be a lunatic or insane pauper, the circuit court for the county where he resides, or the Criminal Court of Baltimore, if he resides there, shall cause a jury of twelve men to be impanelled to inquire whether such person is insane or lunatic. If he shall be found so, the court shall cause him to be sent to the almshouse of the county or city to which he belongs, or to a hospital, or to some other place better suited to his condition, there to be confined, at the expense of the county or city, until he has recovered. But the friends or relations of such lunatic or insane person are not prevented from confining him or providing for his comfort.

The county commissioners of any county may, in their discretion, remove any lunatic pauper from the almshouse and send him to the Hospital for the Insane, and, if the quota allowed such county is already filled, the expense of such lunatic at the hospital shall be paid by the county. No person shall be supported as a pauper lunatic if he has any property, nor shall a person who is living with his parents be so supported if they have property assessed as high as \$1000.

Private patients are committed to an asylum, under its by-laws, upon the certificate of insanity by a regular physician, sworn to before a magistrate, and upon the request of some responsible person, who shall give bonds.

If a person under indictment or charged with any offence is alleged to be insane or a lunatic, and it is found by the jury who try the case, or by a jury summoned to inquire into the insanity, that such person was insane at the time of committing the offence, and still is so, the court shall cause such person to be sent to the almshouse of the county or city to which such person belongs, to a hospital, or to some other place better suited to the condition of the prisoner, there to be confined until he has recovered his reason and has been discharged by due course of law.

If, during the recess of either of said courts, any person appearing, or alleged to be, insane shall be arrested and charged with a crime, the judge shall have a jury of twelve men at once summoned by the sheriff, to try the question whether the prisoner was insane when the offence was committed, and still is so. If found insane, he shall be committed as above stated.

¹ Revised Code of Maryland, 1878, pp. 62, 242-244, 497-499, 660. Laws of Maryland, 1880, p. 465.

If any prisoner thus found insane has property, the income of which is sufficient to pay for his support in a hospital, the court shall appoint a trustee to take charge of such estate and to have such insane person confined and supported in some hospital or asylum.

If any convict in the Maryland Penitentiary is insane, the Governor, on recommendation of the board of directors, may remove him and provide for his support and safe keeping in the Hospital for the Insane, or in any other State institution for the insane, and the expense shall be paid out of the funds of the penitentiary.

MASSACHUSETTS.¹

A judge of the supreme judicial court, or superior court, in any county where he may be, and a judge of the probate court, or of a police, district, or municipal court within his county, may commit to either of the State lunatic hospitals any insane person then residing or being in said county, who, in his opinion, is a proper subject for its treatment or custody.

Except when otherwise specially provided, no person shall be committed to a lunatic hospital, or other receptacle for the insane, public or private, without an order or certificate signed by one of said judges, stating that the judge finds that the person is insane and is a fit person for treatment in an insane asylum. The judge shall see and examine the person alleged to be insane, or shall state in his order the reason why it was not deemed necessary. The judge shall in all cases certify in what place the lunatic resided at the time of commitment. There must be filed with the judge a certificate signed by two physicians, each of whom is a graduate of some legally organized medical college, and has practised three years in the State, and neither of whom is connected with any hospital for the insane. Each physician must have personally examined the person alleged to be insane, within five days, and each shall certify on oath that in his opinion the person is insane and a proper subject for treatment, giving his reason therefor. A copy of this certificate shall be sent with the patient to the hospital.

A person applying for the commitment of a lunatic to a State hospital shall first give notice to the mayor, or one of the selectmen of the place where the lunatic resides, of his intention to make such application. In all cases there shall be filed with the application, or within ten days after the commitment, a statement in detail in prescribed form, giving the history, habits, and condition, and the names of relatives, not exceeding ten in number, of the patient. This statement, or a copy of it, shall be sent to the superintendent of the asylum. The superintendent shall at

¹ Public Statutes of Massachusetts, 1882, pp. 432-434, 471, 472, 474-482, 949, 1197, 1198, 1201, 1202, 1207, 1244. Acts and Resolves of Massachusetts, 1882, p. 248; 1883, pp. 49, 77.

once cause notice to be sent by mail to each of said relatives of the fact of the patient's admission, and also to any other two persons whom the patient shall designate. The judge, in his discretion, may apprehend the alleged insane person and place him in confinement pending examination, and may summon a jury to try the question of insanity. The verdict of the jury shall be final.

If the State Board of Health, Lunacy, and Charity finds an insane person not incurable, in an almshouse or other place, in need of better treatment, it shall cause application to be made to a judge for his commitment to a hospital.

Any person whose case is duly certified separately by two physicians, qualified as above, to be one of violent and dangerous insanity, may be received by the superintendent of any lunatic hospital and detained not exceeding five days without any warrant of commitment by a judge. In such a case there shall be an application, signed by one of the selectmen of the town, or by the mayor or one of the aldermen of the city where the insane person resides, stating that the case is one of violent and dangerous insanity, and giving the facts in regard to the patient's symptoms and history. The person committing such a person shall give a bond of \$100 dollars that he will, in five days, obtain a regular order of commitment, or take the patient away.

The superintendent of any insane hospital, private or public, may receive and detain therein as a boarder and patient any person who is desirous of submitting himself to treatment, and makes written application therefor, but who is not so insane as to make it proper to grant a certificate of insanity. Such patient shall not be detained longer than three days after having given notice in writing of his desire to leave. When such a patient is admitted, notice shall at once be given to the State Board of Health, Lunacy, and Charity, who shall cause the case to be investigated.

Pauper lunatics having no known settlement shall be supported at the expense of the State; other pauper lunatics by the towns or cities where their settlement is. Amounts paid by the State, or by a city or town, may be recovered of any person legally liable to support the lunatic.

The attorney of a patient shall be allowed to visit him in the hospital at all reasonable times, if his visits, in the opinion of the superintendent, would not be injurious to the patient, or upon the order of a judge of the supreme, superior, or probate court. Patients shall be furnished materials to write monthly to the superintendent and to the State Board; and locked letter-boxes shall be provided in each ward, to be opened monthly by the State Board.

The State Board of Health, Lunacy, and Charity, shall have general supervision over the hospitals for the insane, public and private, and shall act as commissioners of lunacy, with power to discharge any person, whether insane or not, who is improperly restrained of his liberty, in their opinion, by reason of alleged insanity. It may discharge also such patients as can be cared for after such discharge without danger to others and with benefit to themselves. The Board may, when directed by the Governor, assume and exercise the powers of the board of trustees.

Any two of the trustees of a State lunatic hospital, or any judge of the

supreme judicial court, or the judge of the probate court for the county in which the hospital is situated, or in which the patient had his residence, after such notice as the said trustees or judge may deem reasonable and proper, may discharge any patient, if it appears that he is not insane, or, if insane, will be sufficiently provided for by himself, his relatives, or friends, or by the city or town liable for his support, or that his confinement is no longer necessary for the safety of the public or his own welfare. Any two of the trustees may remove to the town or city from which he came any patient who is incurable and is not dangerous.

Any person may apply to a judge of the supreme judicial court, stating that he has reason to believe that a person named is confined as insane in a lunatic hospital, or other place, public or private, and ought not longer to be so confined, and requesting his discharge. Such judge, if he thinks it proper, shall appoint a hearing and give notice of it to the superintendent, and to such other persons as he deems proper. The alleged insane person may be brought personally before the judge by a writ of habeas corpus, if it is requested, and he thinks it proper. On the request of any person interested, the question shall be submitted to a jury. If it is found by the jury, or by the judge if it is not submitted to a jury, that the person is not insane, or ought not to be so confined, he shall be discharged from such confinement.

No pauper shall be discharged from a State hospital without suitable clothing, and the trustees may furnish him with a sum of money not exceeding \$20.

The Governor or the State board may transfer inmates from one State hospital to another when it is necessary or advisable.

The State board also may remove any inmate of the State Almshouse or State Workhouse to either of the State lunatic hospitals, if his condition requires such transfer. But no such transfer shall be made without the certificate of two physicians, one of whom has no connection with any insane hospital, to the insanity of such inmate.

Transfers from one private asylum to another, or from a private asylum to a State lunatic hospital, may be made with the consent of the State Board, but no such transfer shall be made without the consent of the legal or natural guardian of such inmate.

If all the State lunatic hospitals are crowded, the trustees of any one may remove to their homes, or places of legal settlement, so many of those who are incurable and can be suitably managed at home as may be necessary to make sufficient room.

Patients not furiously mad may be committed by any judge authorized to act to the county receptacle, which is required by law for each county, either within the precincts of the house of correction, or in another building to be deemed a part of the house of correction.

Any insane person confined in a jail, house of correction, or county receptacle, may be removed by the Governor to either of the State lunatic hospitals, or to any other jail, or to any other suitable place, whenever it seems expedient and just.

Any person committed to a county receptacle as not furiously mad may be discharged by the judge, if it appears to be for the patient's

benefit, or when it appears that he can be comfortably cared for by friends or kindred.

Dangerous lunatics shall not be sent to the State Almshouse.

The board of trustees of any of the State lunatic hospitals may give the superintendent authority to discharge any inmate committed thereto, as an insane person, but notice of the intention to discharge must be sent by the superintendent to the person or persons who signed the petition for the commitment of such inmate. The superintendent may also, if he deem it advisable, allow inmates to leave the hospital temporarily in charge of their friends for a period not exceeding sixty days, and may receive such patients back without any further order of commitment.

When a person confined in jail on civil process is supposed to be insane, so as to be incapable of taking the poor debtors' oath, any person interested may apply to the judge of probate for the county in which he is imprisoned. The judge shall appoint a hearing, give notice to the creditor or his attorney, and proceed with an examination into the question of insanity in the regular manner. If the person is found insane, the judge may order his discharge, or his removal to one of the State lunatic hospitals, or other place, for the confinement of insane persons.

If the grand jury fail to indict a man by reason of his insanity, the court, or a judge of the supreme court, sitting for the arraignment of a person charged with murder, if satisfied that he is insane, may order him to be committed to a State lunatic hospital.

When a person indicted is at the time appointed for the trial found to the satisfaction of the court to be insane, the court may cause him to be removed to one of the State lunatic hospitals.

If a person convicted of a capital crime, but not yet sentenced, is found to the satisfaction of the court to be insane, he may be removed to one of the State lunatic hospitals.

If a person convicted and sentenced to death appears to the satisfaction of the Governor and Council to have become insane, they may respite the execution from time to time, until it appears that the convict is no longer insane.

A person acquitted of a crime, other than murder or manslaughter, by a jury on the ground of insanity, may be committed to an insane asylum by the court, if satisfied of the insanity.

When a convict in the State Prison or Woman's Reformatory Prison appears to be insane, he may be removed, by order of the Governor, to one of the State lunatic hospitals. Such convict, however, shall first be examined by a person expert in cases of insanity appointed by the State Board of Health, Lunacy, and Charity, and also by the physician of the prison.

If he recovers his sanity before his term of imprisonment has expired, he shall be reconveyed to the prison.

When a convict in a house of correction or prison other than the State Prison or Reformatory Prison appears to be insane, the case shall be reported by the physician to the jailer or keeper, and by him to one of the judges authorized to act in cases of insanity, and the regular proceedings shall be had for committing such person to an insane hospital.

If he recovers before the expiration of his sentence, he shall be returned to the prison or house of correction.

Persons held in jail for trial or for sentence, except for a capital crime, may, if found insane, be committed to one of the State lunatic hospitals, there to remain until restored to sanity.

When a person indicted for murder or manslaughter is acquitted by reason of insanity, the court shall order such person to be committed to one of the State lunatic hospitals during his life. He may be discharged therefrom by the Governor, with the consent of the council, if he becomes no longer dangerous.

Any physician wilfully conspiring to commit any person who is not insane to any hospital or asylum in the State shall be punished by fine or imprisonment. Any person who establishes or keeps a private insane asylum without a license from the Governor or council, unless otherwise authorized by law, shall forfeit a sum not exceeding \$500.

MICHIGAN.¹

When a person, indigent, but not a pauper, appears to be insane, application may be made to the judge of probate of the county where he resides. The judge shall appoint a time for a hearing, and notify the alleged insane person. He shall call two respectable physicians and other witnesses, and shall notify the prosecuting attorney of the county and the supervisor of the township or ward where the insane person resides, whose duty it shall be to attend. If the judge, after a full investigation, either with or without the verdict of a jury, at his discretion, shall find him insane and also indigent, he shall make a certificate, and the patient shall be admitted into the asylum and supported there at the expense of his county until he is cured, if his cure is effected within two years, and until otherwise ordered. The judge of probate shall notify the supervisors of his county of the result of the proceedings, and they shall raise the money required for the patient's support.

If a pauper becomes insane, the county superintendents of the poor, or any supervisor of any city or town where the pauper belongs, shall make application to the probate judge of the county, who shall make an investigation and shall call one or more respectable physicians and other witnesses, and, if satisfied of the person's insanity, shall make a certificate and have him sent to the insane asylum, as in the case of a person in indigent circumstances. No insane person, not a criminal, shall be confined in any jail more than ten days, nor for any time in the same

¹ Compiled Laws of Michigan, 1871, Vol. II. pp. 1482, 2167, 2168, 2178, 2196. Laws of Michigan, 1873, pp. 226, 227; 1877, p. 120. Howell's Annotated Statutes, Michigan, 1882, Vol. I. pp. 513-530.

room with a person charged with, or convicted of, crime. When an indigent insane person has been sent to the asylum by his friends who have paid his bills there for three months, if the superintendent certify that he is a fit patient, the supervisors of the county of his residence are required to defray the expenses of his remaining thereafter. Extra care and attendance may be allowed patients if specially contracted for.

The town or county officers sending a patient to the asylum, shall provide during the removal a female attendant to every female patient, unless accompanied by her husband, father, brother, or son.

If a patient has no legal settlement in any county or township, the expense of his support in the asylum shall be paid by the State.

The probate judge committing any indigent insane person or insane pauper shall inquire into and determine whether he has a legal settlement and where it is.

The trustees of the different asylums shall meet jointly once or more each year, and may transfer patients from one hospital to another if it is necessary or desirable.

So long as there is room for the insane in the wards of the State asylums, it shall be illegal to consign any insane person to the county almshouses.

No patient shall be discharged without suitable clothing, and if not otherwise provided, the steward shall furnish it, and also money not exceeding \$20.

When a person shall have escaped indictment, or shall have been acquitted of a criminal charge or a misdemeanor on the ground of insanity, the court shall carefully inquire and ascertain whether his insanity in any degree continues, and, if it does, shall order him in safe custody and to be sent to the asylum.

If any person in confinement under indictment, or sentence of imprisonment, or on any criminal process whatever, shall appear to be insane, the circuit court commissioner of the county where he is confined, or, if he be absent, the judge of the circuit court, shall upon the application of the prosecuting attorney institute an investigation and call two respectable physicians. If the insanity is proved, the commissioner or judge may order the safe custody and removal of such person to the asylum, there to remain until restored to sanity. If the patient recovers, he shall be sent back to prison to be proceeded against criminally, kept in confinement, or discharged, as the case may be.

If a person imprisoned on civil process becomes insane, like proceedings shall be resorted to, but notice shall be given to the plaintiff or his attorney, if in the State.

An insane criminal may be discharged by order of one of the justices of the supreme court or a circuit judge when, upon due investigation, it appears safe, legal, and right, to make such order.

All insane soldiers and marines of the State shall be removed to the insane hospitals, and there provided for at the expense of the State.

If any convict shall show symptoms of insanity while serving sentence, the warden shall give notice to the physician of the prison and to the medical superintendent of the insane asylum at Kalamazoo. They shall forthwith examine such convict, and, if they find him insane, shall certify

the fact to the warden, who shall forthwith put the convict in the insane department of the prison, and notify the Governor of his condition. The Governor shall inquire into the facts, and may order the lunatic to be conveyed to one of the State asylums for the insane. If the convict recovers his sanity before his term of sentence has expired, he shall be returned to the prison to serve out the unexpired time. If the Governor does not order the removal of such convict to the insane asylum, the physician of the prison shall give him such treatment as circumstances will permit in the insane department of the prison. If the convict so treated recovers his sanity, or so far recovers that it is safe for him to work, the warden shall put him at hard labor according to his sentence.

If a convict at the expiration of his term of sentence is deemed insane, and is so certified by the physician of the prison, and none of his friends or relatives appear to take charge of him, the warden or officer in charge shall give notice to the county clerk of the county from which the convict was sent, and to one or more relatives or friends of the prisoner, and also to the probate judge of the county where the prison is located. The probate judge shall order the sheriff of the county to receive the convict on his discharge and bring him before him. The judge shall then call two respectable physicians and other witnesses, and shall notify the prosecuting attorney of his county, whose duty it shall be to appear and act in behalf of the State. The judge shall fully investigate the facts, either with or without a jury, and, if he finds the person insane and no relative or friend ready to take charge of him, he shall send him to one of the insane asylums of the State, to be kept until restored to sanity, or taken charge of by his friends or otherwise discharged.

If such person is indigent and without relatives, liable for his support, he shall be supported in the asylum at the expense of the State.

Whenever a person on trial for murder, or assault with intent to commit murder, or arson, pleads insanity, and is acquitted and found by the jury not guilty by reason of insanity, he shall be committed to the insane hospital connected with the State prison. Such person shall only be released on the certificate of the medical superintendent of the insane asylum at Kalamazoo, and the circuit judge of the court which committed him, stating that he has so far recovered as to be safe to go at large. On the filing of such a certificate with the Governor, he shall order the person to be discharged.

MINNESOTA.¹

Any insane person a resident of the State may be admitted to the hospitals and maintained at the public expense, free of charge to his or her relatives or friends, and all shall be treated as public patients. The

¹ Statutes of Minnesota, 1878, pp. 454-460, 598, 958. Laws of Minnesota, 1879, pp. 26, 38, 39.

probate judge, or, in his absence, the court commissioner of any county, upon information being filed before him that there is an insane person in his county needing care and treatment, shall cause the person alleged to be insane to be examined by a jury consisting of two respectable persons beside himself, one at least of whom shall be a physician, to ascertain the fact of insanity. If the person is found insane, a warrant shall issue directing that he be carried by the sheriff or some other suitable person, and placed in the care of the superintendent of the insane hospital. It is the duty of the judge of probate, or court commissioner, with the assistance of the examining physician, to obtain, so far as possible, answers to certain prescribed questions relating to the history and condition of the patient, and to forward the same to the superintendent, when the patient is sent to the hospital.

Patients shall be legally discharged by vote of the trustees, and, for this purpose, three shall constitute a quorum. When a patient is discharged as cured, the superintendent shall furnish him with suitable clothing and money sufficient to pay his expenses home, unless otherwise supplied.

The relatives of any person charged with insanity or found to be insane shall have a right to take charge of and keep said insane person if they shall desire to do so; but the probate judge or court commissioner may require a bond of such relatives for the proper and safe keeping of such person. If the relatives or friends of any patient kept in the hospital shall ask for his discharge, the superintendent may require a bond conditioned for the safe keeping of such patient: Provided, that no patient under the charge of, or convicted of, homicide shall be discharged without the consent of the superintendent and board of trustees. Whenever a patient is discharged from either asylum, the superintendent shall send notice of the same to the judge of probate who issued the warrant for the commitment.

The superintendent of each hospital is required, once a month, to make out a written report of the condition of each patient in the hospital, and to send a copy to the next of kin of each of said patients.

A commission appointed by the Governor, consisting of three physicians, of whom one shall be a member of the State Board of Health, shall visit the hospitals for the insane once in every six months, or at the request of the Governor, to examine their sanitary and general condition, and to inquire into the condition of the patients, and make a report in detail to the Governor. This commission, if they find patients whose insanity they have reason to doubt, may remand them to the probate courts by which they were committed, to be there detained under proper surveillance until the judge is satisfied of their sanity or insanity. If any patient is thus found to be sane, he shall be discharged by the probate court; otherwise he shall be recommitted to the hospital; but no person charged with a crime shall be so discharged. Idiots and feeble-minded children may be removed by the commissioners and sent to the Asylum for the Deaf, Dumb, and Blind, to be there treated.

When any person indicted for an offence is on trial acquitted by reason of insanity, if the discharge or going at large of such person is considered by the court dangerous to the community, the court may order him to be

committed to the Hospital for the Insane for safe keeping and treatment, or may order him to be committed to prison, or may give him into the care of his friends, taking bonds that he be well and securely kept.

Whenever a convict in the State Prison shall, in the opinion of the warden and board of inspectors thereof, be regarded as insane, it shall be the duty of said board to call in two skilled physicians, one of whom may be the prison physician, who shall, without employing cruel or inhuman tests, make a careful examination as to the insanity of such convict, and render a report, to be entered on the prison records. If the convict is found insane, the board shall notify the Governor, who shall have the prisoner sent to the insane hospital, there to be kept and treated. If such a patient is cured of the mental disability on account of which he was committed to the hospital, and his term of sentence has not expired, the Governor shall be notified, and the convict shall be remanded to the State Prison.

MISSISSIPPI.¹

Any person, being a lunatic and a resident of the State, may be admitted into the asylum free of charge, the expenses of removal to be paid by the county from which the insane person was sent, or in which he had his settlement; but if the patient is able, he shall pay for the expense of his removal. The superintendent of the asylum, provided there is room, shall admit all persons ordered to be placed therein by the chancery court after an inquest of lunacy.

When an application is made by the friends or relatives of a lunatic to the chancery court, if the court is satisfied there is probable cause, it shall order the sheriff to summon the person alleged to be of unsound mind, and six good men of the county in no way related to the party, to try the question of insanity. If the person is judged by the inquest, or a majority of them, to be incapable of taking care of himself, they shall certify the same to the court, and the court or chancellor, or clerk in vacation, shall appoint some suitable person guardian of such lunatic, directing the guardian to take care of the person and his estate. If the case requires it, the court or clerk may direct confinement in the lunatic asylum.

In case the friends or relations of any lunatic shall neglect or refuse to place him in the asylum, and shall allow him to go at large, the clerk of the chancery court of any county in which such lunatic may reside or be found going at large, on the suggestion, in writing, of any citizen, shall direct the sheriff to summon the lunatic and six discreet persons to make inquisition. If the person is adjudged by the inquest, or a

¹ Revised Code of Mississippi, 1880, pp. 205-210, 581-583, 794, 795, 802, 803. Laws of Mississippi, 1882, pp. 61-65.

majority of them, to be insane, and a fit subject for the asylum, the clerk shall order the sheriff to take the lunatic and place him in the asylum, if there be a vacancy, or, if there be no vacancy, to confine him in the county jail until room can be had in the asylum.

If any patient is found incurable, but harmless, the superintendent shall have him removed to the county where he belongs, there to be cared for by his guardian or his friends, or, if he is poor and has no friends who are able, he shall be maintained as a poor person by the county.

If the superintendent and trustees think that a lunatic who is a resident of the State ought to be admitted as a patient, they may receive him, even though no proceedings in lunacy have been instituted. The trustees may adopt such rules as they think proper in regard to requiring a statement of the case and a history of the patient, to be presented with the application for admission.

When a person is charged with the commission of an offence, and it appears that he was insane when the offence was committed, and still is insane, he shall not be discharged, but the case shall be reported to the chancellor or clerk of the chancery court of the proper county, whose duty it shall be to proceed with the case according to the law relating to persons *non compos mentis*.

When the grand jury fails to indict, or a traverse jury fails to convict, a person by reason of his insanity, and it is found that the person is still insane and dangerous, notice shall be given to the proper chancellor or clerk of the chancery court, whose duty it shall be to proceed with such person and his estate according to the law relating to insane person.

If the sheriff is satisfied that any convict under sentence of death is insane, he shall, with the concurrence of the judge of the circuit court, or the chancellor, or the president of the board of county supervisors, in the absence of such circuit judge, summon six physicians, if to be had, and, if not, six other discreet men, to inquire into such insanity. If the convict is found insane, the verdict shall be transmitted to the Governor, and the execution suspended until the Governor is satisfied that the convict has become sane.

MISSOURI.¹

Persons afflicted with any form of insanity may be admitted into an insane asylum when the superintendent thinks they will be benefited by the care and treatment of the institution; and any patient may be discharged by the superintendent if longer treatment is not likely to improve his condition. The indigent insane of the State shall always have the preference over those who have the ability to pay, and, if there is not

¹ Revised Statutes of Missouri, 1879, Vol. I. p. 325; Vol. II. pp. 818-828, 1133, 1138. Laws of Missouri, 1881, pp. 123, 141; 1883, pp. 78, 79.

room in the asylum for all the insane persons in the State, recent cases (of less than a year's standing) shall have the preference; but no county shall have in the institution more than its just proportion, according to its insane population. There shall be sent with each patient a detailed account of his case, as far as practicable, stating the cause of his insanity, its duration, the former treatment of the patient, and all other particulars; and, if possible, some one acquainted with the individual should accompany him to the asylum, from whom minute particulars of his insanity may be learned.

Pay patients, those not sent by order of the court, are admitted as follows: The superintendent shall be furnished with a request in a prescribed form, and with a certificate, dated within two months, in prescribed form, signed by two physicians, stating the patient to be insane. Thirty days' charges must be paid in advance, and a sufficient bond given in prescribed form to secure future expenses, and the removal of the patient when desired.

County patients are admitted as follows: The several county courts shall have power to send to the asylum such of their insane poor as may be entitled to admission. The counties thus sending shall pay semi-annually, in cash, in advance, for the support of their insane poor, the price of board to be fixed by the board of managers. Some citizen in the proper county must file with the clerk of the county court a statement, in prescribed form, that the person is insane and a recent case, and has no property. It shall give the names of two witnesses who can swear to the facts, one of whom shall be a respectable physician. The clerk shall thereupon summon the witnesses named to appear at a specified time, also such other persons as he thinks proper. At the time appointed, unless there is an adjournment, there shall be a trial before the court, either with or without a jury.

If the facts stated shall be found true, an order shall be entered of record, stating that the person found to be insane is a fit subject for treatment in the asylum. The order shall require the medical witness to make out a detailed history of the case, and also that the clerk of the court make application to the superintendent of the asylum for the patient's admission. If the patient is dangerous to be at large, that fact shall be set forth. The superintendent, on receiving the application and a copy of the order of the court, shall immediately advise the clerk whether the patient can be received, and, if so, at what time. If the patient can be admitted, the clerk shall issue his warrant to the sheriff or some suitable person, the relatives of the insane person having a preference, directing that the insane person be arrested and conveyed to the State Lunatic Asylum. If there is necessity, he may authorize one or more assistants. The superintendent shall acknowledge on the writ the receipt of the patient, and the warrant shall be returned into court.

A pay patient may become a county patient, if the county court so order. In such case, the clerk of the court shall send to the superintendent a certificate, stating that the patient has not estate sufficient to support him in the asylum. A county patient may become a pay patient by order of the county court, and the filing of the proper certificate, stating the ability of the patient to pay.

Whenever the superintendent desires the removal of a county patient from the asylum, he shall notify the clerk of the county court of the county from which such patient was sent, and the clerk shall have the patient removed by the sheriff.

If any person, by lunacy or otherwise, shall be furiously mad or dangerous, it shall be the duty of his guardian, or other person under whose care he may be, to confine him in some suitable place until the next sitting of the probate court for the county, when such order shall be made by the court for the restraint, support, and safe keeping of the person, as the circumstances of the case shall require.

If the persons in charge of such an insane patient fail to confine him, or if there is no one in charge of him, any judge of a court of record, or any two justices of the peace, may cause him to be apprehended, and may employ some one to confine him in a suitable place until the probate court makes such further orders as the case may require.

When a person tried upon indictment for any crime or misdemeanor shall be acquitted on the sole ground that he was insane when the offence was committed, the fact shall be found by the jury in their verdict, and also whether the prisoner has recovered or not. If the prisoner has recovered, he shall be discharged. If he has not recovered, and is not a poor person, and the court is satisfied it would be unsafe to permit him to go at large, the court shall order that he be sent to the asylum. The sheriff shall keep such prisoner in the county jail, poor-house, or other safe custody, until such time as he can be received into the asylum, and then shall transfer him there. The costs and the expense of maintaining such insane person shall be taxed by the court each term, and collected out of the prisoner's estate. If the prisoner is a poor person, the court shall order him to be kept in safe custody by the sheriff until the county court shall cause him to be removed to the asylum, as in the case of insane poor persons; provided, however, that no further examination into the insanity of the prisoner need be made. By an indigent or poor insane person is meant one who is worth, above his debts, and excluding property exempt from execution, less than \$300: or, if he has a family, less than \$1000, after deducting out also the expense of supporting his family for one year.

If any convict, before the execution in whole or in part of the sentence of the court, becomes insane, it shall be the duty of the Governor to inquire into the facts; and he may pardon such lunatic, or commute the execution, and may order such lunatic to be conveyed to the asylum, and there kept until restored to reason. If the sentence is only suspended for a time, it shall be executed at the expiration of the period, unless the Governor direct otherwise. If any person, after indictment and before trial, becomes insane, the circuit or criminal court wherein such person stands charged shall suspend proceedings, and order a jury to be summoned to try the question of the insanity of the person. The judge shall notify the prosecuting attorney of the inquiry, and also the alleged insane person, unless the court order him to be brought before it. If the jury find that the person has become insane, the judge shall order him to be sent to the lunatic asylum. If he ever recovers his sanity, the proceedings against him shall go on as if there had been no interruption. If the

jury find that he has not become insane, then the trial shall go on in the same manner as though no such inquiry had been made.

If, after any convict is sentenced to the punishment of death, the sheriff has cause to believe that he has become insane, he may summon a jury of twelve men, and give notice to the prosecuting attorney, and have the question tried. If it is found that such convict is insane, the sheriff shall suspend the execution until he receives a warrant from the Governor or the court, directing him to proceed with the execution.

MONTANA.¹ (TERRITORY.)

There being as yet no public insane asylum established, the commissioners of the insane are authorized to make a contract with some person to take charge of and care for insane persons who shall be delivered to him. The Governor also may make contracts for the care of the indigent insane of the Territory, and may pay the expense of sending patients out of the Territory to their friends if he deem it advisable.

It is the duty of the probate judge, or, in his absence or inability to act, of the chairman of the board of county commissioners of the several counties (upon the application of any person, under oath, stating that any person, by reason of insanity, is unsafe to be at large, or is suffering from mental derangement), to cause such person to be brought before him, and also a jury of three citizens of his county, one of whom shall be a licensed practising physician. A hearing shall be had by the jury, and an examination shall be made of the alleged insane person. If the jury, after a careful examination, certify that the charge is correct, and the probate judge or commissioner is satisfied that such person, by reason of insanity, is unfit to be at large, or is incompetent to provide for his own proper care and support, and has no property, and no near kindred of sufficient means to provide for such maintenance, or if such kindred neglect and refuse to care for him, then the judge or county commissioners shall make out duplicate warrants, reciting the facts, and give them to the sheriff, who shall immediately convey the insane person named and deliver him to the contractor employed to care for insane persons. The contractor shall acknowledge the receipt of the patient, and the warrants shall be returned, one to the judge or county commissioner issuing it, and the other to the secretary of the board of commissioners of the insane.

When it is represented to the probate judge, upon verified petition of any relative or friend, that any person is insane or mentally incompetent to manage his property, the judge must cause a notice to be given to the

¹ Laws of Montana, Revised Statutes, 1879, pp. 259, 260, 337, 338, 348, 448, 449, 555-559. Laws of Montana, 1883, pp. 112, 113.

supposed incompetent person five days, at least, before the hearing, and such person, if able to attend, must be produced before him. If, after a full hearing and examination, it appear to the probate judge that the person in question is incapable of taking care of himself, he shall appoint a guardian, who shall have the care and custody of the person of his ward and the management of his estate. The question of the patient's restoration to sanity may be determined by petition to the probate judge, who shall summon a jury and have the question tried.

All persons adjudged insane, whether indigent or not, shall be cared for by the Territory, if so desired, under the contract made by the Governor of the Territory for the care and maintenance of indigent insane; and no person so adjudged insane shall be refused admission into any asylum provided by the Territory, nor shall the Territory ask or receive any compensation therefor.

If any defendant in a criminal case, upon whom the court is about to pass judgment, declare that he is insane, the court, if it finds there is reasonable cause for believing the declaration, may order a jury to be impanelled, and a trial had. If the jury find that the defendant is insane, the court shall order him to be placed in the custody of the person provided by law for the keeping of insane persons; if no such person is provided, then to the custody of some suitable person. Whenever it shall appear to the satisfaction of the court that such person has become sane, it shall order him to be produced for judgment.

If any defendant, at the time he is arraigned, declares that he is insane, or there is reasonable cause for believing him insane, the like proceedings shall be had as in the case of a prisoner about to receive judgment. If the jury find that the defendant is sane, the trial shall proceed; but if insane, the defendant shall be delivered to the custody of the person provided by law for the keeping of the insane, or to the custody of some suitable person. If the defendant recover his sanity, the trial shall proceed.

If, after any criminal is sentenced to death, the sheriff has cause to believe that such criminal has become insane, he may summon a jury of twelve competent jurors, with the concurrence of the judge of the court by which the judgment was rendered, to inquire into such insanity, giving notice thereof to the prosecuting attorney. If it is found by the jury that such criminal is insane, the sheriff shall suspend the execution of the sentence until he receives a warrant from the Governor, or from the supreme or district court, directing the execution of the criminal. The Governor, as soon as he is convinced that the criminal has recovered his sanity, may appoint a time for the execution, or may, in his discretion, commute the punishment to imprisonment for life.

Whenever it appears that a territorial convict is insane, the warden, or other officer in charge of the penitentiary or prison, shall certify the fact to the probate judge of the county in which the prison or penitentiary is. The judge shall cause the convict to be brought before him, and at the same time and place a jury of three citizens of his county, one of whom shall be a licensed physician. If the jury, after a careful examination, certify that the charge is correct, the judge shall have such insane person delivered over to the contractor for the custody, maintenance, and

treatment of insane persons. If, before the expiration of said convict's sentence, it appears to the contractor that he is restored to reason, he shall notify the sheriff, and such convict shall be confined in the prison or penitentiary for the remainder of his term.

NEBRASKA.¹

In each organized county there shall be a board of commissioners of insanity of three members, who may subpoena witnesses, administer oaths, etc. The clerk of the district court shall be *ex officio* clerk of the board. The other two members shall be appointed by the judge of the district court, and one of them shall be a respectable practising physician, and the other a respectable practising lawyer. In case of the temporary absence or inability to act of two of the commissioners, the judge of the district court may act in the place of one of the commissioners, or the commissioner present may call to his aid a respectable practising physician or lawyer. The commissioners shall have cognizance of all applications for admission to the hospital, or for the safe keeping otherwise of insane persons in their respective counties, except in cases specially provided for.

Applications for commitment shall be made in the nature of an information alleging that the person is believed by the informant to be insane and a fit subject for treatment in the hospital, and must state that such person is found in the county, and give what is known in regard to his settlement. The commissioners shall at once investigate the case, and may require the alleged insane person to be brought before them, and kept in suitable custody until their investigation is concluded; but they may dispense with this, if they think it will be injurious to such person, or for any reason deem it unnecessary. They shall hear the testimony offered for and against the application, and in each case shall appoint some regular practising physician of the county, who may, or may not, be of their own number, to see the alleged insane person, and make a personal examination. This physician shall make a certificate, stating whether or not he finds the person insane, and, in connection with his examination, he shall endeavor to obtain from the relatives of the insane person, or from others, correct answers to certain prescribed questions touching the history and condition of the patient. The questions and answers shall be attached to his certificate. On the return of this certificate, the commissioners shall find whether the person alleged to be insane is insane, and whether he is a fit subject for treatment in the hospital. They shall also state what is ascertained about his settlement. If the person is found insane, they shall issue a warrant authorizing the

¹ Compiled Statutes of Nebraska, Guy A. Brown, 1881, pp. 292, 300-309, 732, 747.

superintendent of the hospital to receive and keep such person as a patient. The sheriff shall then deliver the patient, with the physician's certificate and the order of the court, to the superintendent of the hospital. If the sheriff is not at hand, the commissioners may appoint some other suitable person to execute the warrant; but no female shall be taken to the hospital without the attendance of some other female or some relative. Any relative or friend of the patient, who is a suitable person, shall have the privilege, if he so request, of executing the warrant, but shall receive no fees for so doing. The warrant endorsed by the superintendent, acknowledging the receipt of the patient, shall be returned to the clerk of the commissioners.

If a patient has a legal settlement in any county, his expenses shall be paid by that county. If he has no legal settlement, his expenses shall be paid by the State. All patients shall be on an equal footing in the hospital, except that if the relatives or immediate friends of any patient shall desire it, and shall pay the expense thereof, a patient may have special care. The relatives or friends of any patient in the hospital shall have the privilege of paying any portion, or the whole, of the expenses of such patient.

If the hospital is full, or if for any reason the patient cannot be received and it is not safe that he be allowed to go at liberty, the commissioners shall require that such patient be suitably provided for otherwise, until such admission can be had. Such patients shall be cared for either as public or as private patients. Those shall be treated as private patients whose relations or friends will agree to provide for them without public charge. The commissioners shall appoint some suitable person as special custodian to restrain and care for such patients in such way as best to secure their comfort and safety and the safety of others.

In the case of public patients, the commissioners shall require that they be restrained and cared for by the commissioners of the county or overseers of the poor at the expense of the county. If there is no poor-house for the reception of such patients, or if no more suitable place can be found, they may be confined in the jail of the county in charge of the sheriff.

Where persons are alleged to be insane, but it is not desired to send them to the hospital, the commissioners of the insane, on application, may make examination, and, on proof of their insanity and need of care, may make provision for their restraint and care within the county, either as public or private patients.

Insane persons who have been under care outside of the hospital by authority of the commissioners of the insane of any county may, on application, be transferred by the commissioners to the hospital, whenever they can be admitted thereto. If the admission is within six months after the inquest already had, another inquest shall not be necessary, unless the commissioners deem it advisable.

If it becomes necessary, for want of room in the hospital, to discriminate in the general reception of patients, a selection shall be made as follows: (1) Recent cases (of less than one year's duration). (2) Chronic cases (of more than a year's standing, but with favorable prospects of recovery). (3) Cases which have been longest on file. (4) The indigent have a preference, other things being equal.

Any patient who is cured shall be immediately discharged by the superintendent. Upon such discharge, the patient, if not otherwise supplied, shall be provided by the superintendent with suitable clothing and a sum of money not exceeding \$20.

If a patient proves incurable and is not dangerous to be at large, his relatives, with the consent of the board of trustees, may remove and take charge of him.

If a patient in the hospital is not cured and is dangerous to be at large, the commissioners of insanity of the county where he belongs, on making provision for the care of such patient within the county, may authorize his discharge, if the relatives or immediate friends request it.

The board of trustees, or, in the interim between the meetings of the board, the superintendent with two trustees, may order the discharge or removal of incurable and harmless patients, whenever it is necessary to make room for recent cases. If patients so discharged need further care, the commissioners of insanity shall be notified, and shall at once provide for their care in the county.

If it is alleged that a person confined as a patient in the hospital is not insane, and is unlawfully detained, a judge of the district court of the county in which the hospital is situated, or of the county where the person detained belongs, shall appoint a commission of not more than three persons, one of them a physician, and, if two or more are appointed, one a lawyer, and they shall inquire into the merits of the case. They shall have an interview with the patient in such manner as they deem most desirable, shall talk with the officers, and examine the records of the hospital. They shall then make a report to the judge, and shall accompany their report with a statement of the case signed by the superintendent. If the judge shall find the person not insane, he shall order his discharge. Such a commission shall not be repeated oftener than once in six months, in the case of any one patient, nor shall it be appointed within six months of the patient's commitment.

The provisions in regard to the support of the insane at public charge are not construed to release the estates of such insane persons, nor their relatives, from liability for their support, but the board of county commissioners may release the relatives from a portion, or even the whole of the burden, if they think it reasonable and just to do so.

No idiots shall be received or kept in the hospital, and any such there shall be sent to the counties where they belong.

If it is shown to the satisfaction of the commissioners of insanity of any county that a person kept as a patient within the county is no longer in need of care, they shall at once order his discharge.

Insane persons from other States and Territories may be received on the same footing, and on the same conditions as private pay patients.

A person who becomes lunatic or insane after the commission of a crime or misdemeanor, ought not to be tried for the offence during the continuance of the lunacy or insanity. If, after verdict of guilty and before judgment pronounced, such person become lunatic or insane, no judgment shall be given while such lunacy or insanity shall continue. If, after judgment and before execution of the sentence, such person shall become lunatic or insane, then, in case the punishment be capital, the execution

thereof shall be stayed until the recovery of said person. In all such cases it shall be the duty of the court to impanel a jury to try the question whether the accused be, at the time of impanelling, insane or not.

In the case of convicts, sentenced to death, who appear to be insane, a judge of the district court shall summon a jury of twelve men to inquire into such insanity, and shall give notice of the time of trial to the district attorney. If the finding shall be that the convict is insane, the judge shall suspend the execution, and notice shall be sent to the Governor. When the Governor becomes satisfied that the convict has recovered his sanity, he may appoint a time for the execution.

No person alleged to be insane shall be restrained of his liberty, otherwise than as provided by law, except for the safety of persons or property until the proper authority can be obtained; and any one abusing or treating an insane person with wanton cruelty or severity, shall be guilty of a misdemeanor, and liable to an action for damages.

NEVADA.¹

The judge of the district court in each judicial district, upon the application of any person under oath, setting forth that any person, by reason of insanity, is unsafe to be at large, or is suffering under mental derangement, shall cause the said person to be brought before him at a time appointed, and shall also cause to appear, at the same time, one or more licensed practising physicians, who shall examine the person alleged to be insane. If the physician, after a careful examination, shall certify upon oath that the charge is correct, and if the judge is satisfied that the person, by reason of his insanity, is unfit to be at large, and is incompetent to provide for his own care and support, and has no property applicable to the purpose, and has no near kindred within the State of sufficient means or ability to care properly for him and his support, he shall cause such indigent insane person to be conveyed to the insane asylum of the State, and placed in charge of the superintendent.

Paying patients, whose friends or property can pay their expenses, shall pay according to the terms directed by the board of commissioners; but the insane poor shall in all respects receive the same medical care and treatment from the institution, and no record of debt shall be made against them.

When an indictment is called for trial, or, upon conviction, the defendant is brought up for judgment, if a doubt shall arise as to his sanity, the court shall order the question to be submitted either to the regular jury, or to a jury specially called to inquire into the fact. The trial of

¹ Compiled Laws of Nevada, 1873, Vol. I. pp. 206, 525, 526, 539, 540; Vol. II. pp. 383, 384. Statutes of Nevada, 1879. p. 140; 1881, pp. 59-63; 1883, pp. 102, 103.

the indictment shall be suspended until the question of sanity is determined.

The mode of proceedings at the trial is prescribed. If the jury find that the defendant is sane, the trial of the indictment shall proceed, or judgment be pronounced, as the case may be. If he is found insane, the trial or judgment shall be suspended until he becomes sane, and the court, if it deem the prisoner's discharge dangerous to the public, may order that he be committed to the care and custody of some proper person, and that upon his becoming sane he be redelivered to the sheriff, who shall place him in proper custody until he be brought to trial or judgment, as the case may be, or be legally discharged.

If, after the judgment of death, there be good reason to suppose that the defendant has become insane, the sheriff, with the concurrence of the judge who rendered judgment, may summon a jury of twelve men to inquire into the supposed insanity. The district attorney shall attend the inquisition. If it be found that the defendant is insane, the sheriff shall suspend the execution of the judgment until he receives a warrant from the Governor, who, when the defendant recovers his sanity, may fix a day for the execution.

Whenever a convict, while undergoing imprisonment in the Nevada State Prison, shall become insane, and be so adjudged by a commission of lunacy appointed by the court, as in other cases of insanity, it shall be the duty of the warden to deliver such convict to the superintendent of the State Insane Asylum for detention and treatment.

If such convict be restored to sanity before the expiration of his sentence, the superintendent shall deliver him to the warden of the prison, to be retained therein for the unexpired term of his sentence, unless said convict shall be released by order of the board of pardons.

NEW HAMPSHIRE.¹

If any insane person is in such condition as to render it dangerous that he should be at large, the judge of probate, upon petition of any person, and such notice to the selectmen of the town in which such insane person is, or to his guardian, or to any other person as he may order—all which may be done as well in vacation as in term time—may commit such insane person to the asylum.

Any insane pauper supported by any town may be committed to the asylum by order of the overseers of the poor, and there supported at the expense of the person, town, or county chargeable with his support. If the overseers neglect to make such order in relation to any insane county pauper, the supreme court, or any two judges thereof in vacation, may

¹ General Laws of New Hampshire, 1878, pp. 60-63, 595-597. New Hampshire Laws, 1879, p. 389; 1881, p. 530.

order such pauper to be committed to the asylum and there supported at the expense of the county.

The parent, guardian, or friends of any insane person may cause him to be committed to the asylum, with the consent of the trustees, and there supported on such terms as they may agree upon. No person shall be committed to the Asylum for the Insane, except by the order of the court or the judge of probate, without the certificate of two reputable physicians that such person is insane, given after a personal examination within a week of the committal; and such certificate shall be accompanied by a certificate from the judge of the supreme court, or court of probate, or mayor, or chairman of the selectmen, testifying to the genuineness of the signatures and the respectability of the signers.

Any insane person committed to the asylum by his parent, guardian, or friends, who has no means of support, and no relatives of sufficient ability chargeable therewith, and no settlement in any town, and who is unsafe to be at large, shall be supported by the county from which he was committed.

If any insane person is confined in any jail, the supreme court may order him to be committed to the asylum, if they think it expedient.

Any insane person committed to the asylum by order of the supreme court, such person having been charged with an offence the punishment whereof, as prescribed by law, is death or confinement in the State Prison, shall be supported at the expense of the State.

Any person committed to the asylum may be discharged by any three of the trustees, or by any justice of the supreme court, whenever the cause of commitment ceases, or a further residence at the asylum is not necessary.

But any person so discharged, who was under sentence of imprisonment, which has not expired, shall be remanded to prison.

Some of the trustees shall visit the asylum at least twice a month, and shall give the patients an opportunity to see them in private. If, in their opinion, a further residence at the asylum is not necessary for any patient, it shall be their duty to discharge him. Patients are to be furnished with writing materials, and may send letters to the board of trustees, which shall be delivered without inspection.

Whenever the grand jury shall omit to find an indictment against any person for the reason of insanity or mental derangement, or any person prosecuted for an offence shall be acquitted by the petit jury for the same reason, the court, if they are of opinion that it will be dangerous to the people that such person should go at large, may commit him to the prison, or to the Asylum for the Insane, there to remain until he is discharged by due course of law.

The Governor and Council, or the supreme court, may discharge any such person from prison or transfer any prisoner to the Asylum for the Insane, whenever they are satisfied that such discharge or transfer will be conducive to the health and comfort of such person, and to the welfare of the public.

In case of the sudden death of any patient in the asylum, a coroner's inquest shall be held.

NEW JERSEY.¹

No person shall be committed to an insane asylum, except upon an order of some court or judge authorized to send patients, without lodging with the superintendent (1) a request, signed by the applicant, giving the name, residence, and various other facts regarding the patient, and (2) a certificate, dated within one month, signed by a respectable physician, certifying the patient's insanity. Each person signing the request or certificate must give his residence and occupation.

Each county shall be entitled to send its just proportion of patients. Whenever any pauper in a county entitled to send patients to the asylum may be insane, it shall be the duty of the overseers of the poor in the township where he resides to apply to a judge of the court of common pleas of the county. The judge shall call one respectable physician, and make an investigation, and, if satisfied that the disease is of such a nature as may be cured, he shall make a provisional order that the pauper be taken to the asylum, and kept until restored, if this be effected in three years. Before this order shall take effect, it shall be submitted, with the other papers in the case, to the "chosen freeholders" of the township where such lunatic is found, who, if they are satisfied that the lunatic has a legal settlement in their county, shall endorse their approval upon the order, and it shall then be executed, and the pauper taken to the asylum. Copies of all the papers and proceedings shall be sent to the superintendent of the asylum. The case shall also be reported to the board of chosen freeholders, who shall raise the money for the pauper's support in the asylum.

When a person who is in indigent circumstances, but not a pauper, becomes insane, application may be made to any judge of the court of common pleas of the county where he resides, and the judge shall call a respectable physician and other witnesses, and, either with or without the verdict of a jury, in his discretion, shall decide the case as to the patient's insanity and indigence.

If he find the person insane, and his estate insufficient, he may make a certificate which will entitle the patient to admission to the asylum, and to support there, at the expense of the county, until he is restored to sanity, if effected in three years. If the investigation is made without summoning a jury, the certificate of the judge must be approved by the "freeholders" of the township in the manner above stated in the case of an insane pauper.

When the expenses of an indigent patient in the asylum have been paid by his friends for six months, if the superintendent shall certify that he is a fit patient, and likely to be benefited by remaining in the institution, the "chosen freeholders" of the county of his residence, on application made, may defray the expenses of his remaining a year, and may

¹ Revision of the Laws of New Jersey, 1709-1877, Vol. I. pp. 601-628; Vol. II. p. 1119. Laws of New Jersey, 1879, p. 176; 1880, pp. 89, 90, 204; 1883, p. 216.

repeat the same for two succeeding years, upon like application, and the production of a new certificate from the superintendent each year. No patient is to be admitted for a less period than six months, except in special cases.

When there are vacancies in the asylum, the managers may authorize the superintendent to receive paying patients upon the certificate of insanity by a regular physician, sworn to before a magistrate and by request of a responsible person, who shall give bonds.

Town and county officers, sending a patient to the asylum, shall see that he is provided with suitable clothing. Money paid for the support of an insane person may be collected from his estate or from the persons liable to maintain him.

The provisions above stated are not to abridge the power of the court of chancery over the person and property of insane persons.

If the judge to whom application is made on behalf of an insane pauper is satisfied by the examination that such pauper, though not curable, can not be provided for by the overseers of the poor of the township, or at the poor-house of the township or county, with comfort, and without danger to himself and others, he shall order the pauper to be removed to the asylum.

If the board of chosen freeholders of any county desire and request that a patient be kept in the hospital beyond the period of three years, it may be done, the county continuing to pay the expenses.

Any patients, except those under a criminal charge, or liable to be removed to prison, may be discharged by the board of managers upon the superintendent's certificate of a complete recovery; and they may send back to the poor-house of the county or township whence he came any person admitted as "dangerous" who has been two years in the asylum, upon the superintendent's certificate that he is harmless, and will probably continue so, and is not likely to be improved by further treatment. When the asylum is full, the managers may order the removal of a patient upon the superintendent's certificate that he is manifestly incurable, and can probably be rendered comfortable at the poor-house; and they may also discharge and deliver any patient, except one under a criminal charge, to his relatives or friends, who will undertake with good sureties for his peaceable behavior, custody, and maintenance, without further public charge.

No patient shall be discharged without suitable clothing, and money not exceeding \$10.

If a person is lunatic, and in need of a guardian, a commission of lunacy shall issue out of the court of chancery, and an inquest shall be held. If the lunacy is found, the chancellor shall transmit a copy of all the proceedings to the orphans' court, where a suitable person shall be appointed as guardian, who shall have the care and safe keeping of the lunatic and his property. No lunatic or idiot shall be arrested or held in custody on any civil process, and if such a person is arrested, a writ of habeas corpus may issue.

If any lunatic furiously mad or dangerous is found going at large, any two justices of the peace of the county where he is found may direct the overseers of the poor of the city or township to cause him to be appre-

hended, and safely locked up and chained, if necessary, in some secure place in the city or township where he has, or had, his last legal settlement. If he has no settlement that can be ascertained, he may be conveyed to any place provided in the county for the reception of maniac or lunatic persons, and, if there is no such place, he may be taken to the jail, there to be safely kept until his place of settlement is ascertained, or, failing in that, some order on the subject is made by the court of common pleas.

The expenses shall be collected out of the estate of the lunatic, or, if he has no estate, they shall be paid by the township or county, according as he has a settlement or not.

These provisions are not intended to abridge the authority of the chancellor touching such lunatic, nor to prevent any of the friends or relations of such person taking him under their own protection, so long as they can take care of him.

It is the duty of the overseers of the poor of the several townships in each county to make out a list of all the poor lunatics and idiots within their limits, giving all the facts connected with each case. If the board of chosen freeholders of the county think there is reasonable ground for believing that any of such persons can be restored to their right mind, they shall have them taken to the State Lunatic Asylum.

When a person shall have escaped indictment, or have been acquitted of a criminal charge or of a misdemeanor upon trial, on the ground of insanity, the court shall carefully inquire whether his insanity in any degree continues, and, if it does, shall order him in safe custody, and to be sent to the asylum.

If any person in confinement under indictment, or under any other than civil process, shall appear to be insane, the judge of the circuit court of the county where he is confined shall make an investigation, call a respectable physician and other witnesses, invite the prosecutor of the pleas to aid in the examination, and, if he deem it necessary, call a jury. If it is proved that the person is insane, the judge may discharge him from imprisonment, and order his safe custody and removal to the asylum, where he shall remain until restored to his right mind. Whenever he recovers, he shall be remanded to prison for further criminal proceedings, or be discharged.

A criminal lunatic may be discharged by order of one of the justices of the supreme court if, upon due investigation, it shall appear safe, legal, and right to make such order.

If any person confined in the State Prison as a convict shall appear to be insane, the judge of the circuit court of the county in which the prisoner is situated, shall, upon information of the fact from the physician of the prison, institute an inquiry, call two respectable physicians and other witnesses, invite the Attorney-General to aid in the examination, and, if he think it necessary, call a jury. If it is proved that the prisoner is insane, the judge may order his safe custody and removal to the State Lunatic Asylum, to remain at the expense of the State until restored to his right mind; and then, if his term of imprisonment shall not have expired, he shall be remanded to the prison, to serve out the unexpired portion of his term of imprisonment.

Insane persons may be sent to county asylums existing or to be established, instead of the State Asylum, when it is thought best.

The board of managers are required to keep notes of their visits in a bound book kept for the purpose, to be inserted in their annual report to the Governor.

NEW MEXICO.¹ (TERRITORY.)

If any person is alleged to be a lunatic or habitual drunkard, it shall be lawful for any district judge in the county where the person is or resides, to issue a commission to inquire into the lunacy or habitual drunkenness. No such commission shall issue except upon a petition in writing of a relation by blood or marriage of the person therein named, or of a person interested in the estate. The commission may issue to one person only, or to two or more. The judge shall make an order that notice be given to the alleged lunatic or habitual drunkard, or to some of his near relatives or friends. The commissioner or commissioners may direct the sheriff to summon six or twelve persons upon the inquest, as the case may seem to require. If the alleged lunatic or habitual drunkard is without property, to pay expenses, the judge in person may hold said commission during the term of the court, and have an inquest impanelled from the jurors attending the court.

Every person aggrieved by any inquisition may traverse the same upon, or after, its return, and proceed to trial thereon before a jury. Notwithstanding any traverse that may be pending, the court may make such order as seems necessary for the care and custody of the person and the management of his estate.

If the person is found a lunatic or habitual drunkard, it shall be lawful for the court to commit the custody and care of the person or estate, or both, of such lunatic to such person or persons as they shall deem most suitable. This committee shall give security, and shall have the management and control of the person and estate of the lunatic. A committee of the person may be appointed separately from the committee of the estate.

No person found by inquisition to be a lunatic or habitual drunkard, shall be arrested on civil process; and, if arrested, he shall be discharged by the court.

If in any civil action any person arrested shall appear to be of unsound mind, the jailer or keeper shall give notice of the fact to two justices of the peace, who shall, within five days, attend at the prison and make an examination, and, if they find the person to be a lunatic, shall certify the same to the clerk of the district court. The court, or a judge thereof in

¹ General Laws of New Mexico, L. B. Prince, 1880, pp. 380-389.

vacation, shall appoint a day for a hearing, and publish notice, and inform the creditor a week at least before the hearing, that application has been made for the discharge of the prisoner. If the court or judge, on the hearing, find the prisoner of unsound mind, an order shall be made for his discharge, provided that, if it appears that the person is not fit to be set at large, the court or judge shall make an order that he be detained in custody, or delivered to his kindred or friends, who shall be responsible for his safe keeping, and who shall restrain him from the commission of any offence.

Whenever it shall appear, upon the trial of any person charged with a crime or misdemeanor, that such person was insane at the time of the commission of the same, and he shall be acquitted by the jury on that ground, the court shall have power to order such person to be kept in strict custody, in such place and in such manner as to the court seems fit, so long as such person continues to be of unsound mind.

The same proceedings shall be had if any person indicted for an offence shall, upon arraignment, be found to be a lunatic by a jury impanelled for the purpose; or if, upon the trial of any person indicted, he appears to the jury to be then a lunatic, the court shall have him put in the care and custody of some suitable person. If a person found by inquisition to be a lunatic or habitual drunkard has not, and if his friends have not, money for his support, he shall be kept at the expense of the county.

NEW YORK.¹

No person shall be committed to, or confined as a patient in, any asylum or institution, public or private, except upon the certificate of two physicians under oath setting forth the insanity. The physicians must be of reputable character, graduates of some incorporated medical college, permanent residents of the State, and have been in practice three years. No certificate shall be made except after a personal examination, and in a form prescribed by the lunacy commissioner. It must be in the prescribed form and bear date not more than ten days prior to the commitment. The physicians must not be in any way connected with the asylum to which the insane person is committed.

The patient shall not be kept in the asylum more than five days unless before or within that time the certificate is approved by a judge or justice of a court of record of the county or district in which the alleged lunatic resides, and the judge or justice before approving the certificate may in-

¹ Revised Statutes of New York, Banks & Brothers, 7th ed. Vol. III. pp. 1887, 1888, 1890, 1899-1933, 2568, 2590, 2649, 2653; Vol. IV., The Code of Civil Procedure, pp. 318, 464-468; Code of Criminal Procedure, pp. 12, 69, 88, 93, 96, 97, 126, 127, 175; Penal Code, pp. 5, 47, 79, 93. Laws of New York, 1882, Vol. 2. pp. 109, 500; 1883, p. 199.

stitute inquiry, and, in his discretion, call a jury to determine the question of lunacy. There must be a certificate from some judge of a court of record, stating that the physicians have the requisite qualifications.

The superintendent of any institution, public or private, shall, within three days of the commitment of any insane person, make a descriptive record of his case in a book especially provided for that purpose, and keep a record of his condition and treatment, from time to time, including the forms of restraint used. He shall also record the circumstances of the discharge or death of all patients.

If a pauper becomes lunatic, the county superintendents of the poor of the county or town where he is chargeable may send him to any State lunatic asylum by an order under their hands.

In case the committee or guardian of any lunatic, or his relatives, neglect to confine or maintain him, or are not of sufficient ability to do so, the overseers of the poor or constable of the city or town where any such lunatic shall be found, shall report the same forthwith to the superintendent of the poor, who shall apply to the county judge, special county judge, or surrogate, who, being satisfied that it is dangerous for such lunatic to go at large, shall order him to be apprehended and properly confined, and within ten days taken to some State lunatic asylum, or to such other asylum as may be approved by a standing order of the supervisor of the county.

If any person, not a pauper but in indigent circumstances, becomes insane, application may be made to any county judge, special county judge, judge of a superior court or common pleas of the county where he resides, and the judge shall investigate the facts in the case, both as to indigence and as to insanity. If the judge finds that there is reasonable cause, he shall fix a time and place for a hearing, and give notice to one of the superintendents of the poor of the county chargeable with the expense of supporting such person in the asylum, and shall then proceed to ascertain when such person became insane. The judge may require the friends of the patient to give security to remove him from the asylum as soon as he shall recover. If such patient has not recovered at the end of two years, the managers of the asylum may cause him to be returned to the county from which he came. The judge shall file all the papers in the case, together with his decision, with the clerk of the county, and report the facts to the supervisors, who shall provide the money for the support of such indigent lunatic.

If the expenses in the asylum of an indigent insane patient, not a pauper, have been paid by his friends for six months, and the superintendent shall certify that he is a fit patient and likely to improve, the supervisors of the county of his residence are required, upon a sworn application, to defray his expenses for remaining another year. And they shall repeat the same for two years more, upon like application, and the production of a new certificate from the superintendent. If any lunatic, or friend on his behalf, is dissatisfied with any final decision of a county judge, special county judge, surrogate, judge of the superior court or court of common pleas, of a city or police magistrate, in committing to an asylum, he may, within three days after such order, appeal to a justice of the supreme court, who shall thereupon stay all proceedings, and

forthwith call a jury to decide upon the fact of lunacy. If, after a fair investigation, aided by the testimony of at least two respectable physicians, the jury find the person insane, the justice shall confirm the order for his being sent immediately to an asylum.

If any of the judges above mentioned refuse to make an order for the confinement of a dangerous insane person, they shall state their reasons in writing, so that any person aggrieved may appeal to a justice of the supreme court, who shall determine the matter in a summary way, or call a jury at his discretion.

No person committed to any prison, jail, or house of correction, as a dangerous lunatic, shall be kept there longer than ten days; if, at the end of that time, he continues to be insane, he shall be sent forthwith to some State lunatic asylum, or some other approved asylum.

If a person found to be a lunatic, or his committee, is not possessed of sufficient property to maintain himself, his father, mother, or children, if they are of sufficient ability, shall be compelled to provide for and maintain him. If such relatives have not sufficient means, then the superintendent of the poor of the county shall send such pauper lunatic to a State asylum, or to such private asylum as may be approved by a standing order of the supervisors.

Whenever any person, who is possessed of sufficient property to maintain himself, becomes, by lunacy or otherwise, so far disordered in his senses as to be dangerous, it shall be the duty of the committee of his person and estate to provide a suitable place for his confinement, and to confine and maintain him in such manner as shall be approved by the proper legal authority; and in every succeeding attack of lunacy he shall be sent, within ten days, to some State lunatic asylum, or to such public or private asylum as may be approved by a standing order of the supervisors of the county. The superintendents and overseers of the poor are severally enjoined to see that this provision is carried into effect, as well in cases where the lunatic or his relatives are of sufficient ability to defray the expenses as in case of a pauper.

The overseers of the poor have authority to compel the relatives, guardian, or committee of the person and estate, as the case may be, to confine and maintain an insane person, at their discretion, and to collect the costs of his confinement.

No pauper who has not resided in the State for at least one year next prior to the application shall be committed to any State insane asylum.

Any soldier or sailor, an inmate of the New York State Soldiers' and Sailors' Home, who shall be found insane, may be transferred by an order of the president and secretary of the board of trustees and the superintendent of the home to any State lunatic asylum, there to remain at the expense of said Soldiers' Home until discharged.

The commissioners of the department of public charities and correction of the city of New York may, in their discretion, transfer any insane person in their custody or control to any State lunatic asylum, the officers of which will consent to receive the same. The expense of maintenance shall be paid by said commissioners.

It shall be the duty of all captains, owners, agents, and consignees of all ships or vessels arriving at the port of New York, having as a pas-

senger any lunatic, to keep, provide, and care for such person, on board such ship or vessel, until such person shall have been delivered over and placed under the care of the commissioners of emigration.

If a person is incompetent to manage himself or his affairs on account of lunacy, application may be made to the court having jurisdiction for the appointment of a committee of the person, or of the property, or of both. The court, if the case seems a proper one, shall make an order, either that a commission issue for the purpose of inquiring into the case, or that the question be submitted to a jury at a term of the court. If the person is found to be incompetent, the court makes such order as justice requires. The committee appointed, either of the person or of the property, must give security before entering upon his duties.

If any inmate of any State almshouse, when admitted, is insane, or thereafter becomes insane, and the accommodations in the almshouse are not adequate and proper for his treatment, the secretary of the State Board of Charities may cause his removal to the appropriate State asylum for the insane.

A competent physician shall be appointed by the Governor with the consent of the Senate, who shall be designated the State commissioner in lunacy. It shall be his duty to visit and examine all the asylums, public and private, and report annually to the legislature. If he has reason to believe that any person is unlawfully confined or improperly treated, or that there is any general mismanagement, he shall make an investigation; and he is empowered to summon witnesses, administer oaths, and issue orders such as the case may require. He shall notify the district attorney, who shall be present at all his investigations into matters of general administration and management, to examine witnesses in behalf of the people. The commissioner in lunacy shall exercise the powers belonging to referees appointed by the supreme court, and he may direct the authorities of the asylum, where affairs have been investigated, to correct any rule or abuses as he thinks best.

It is also the duty of the lunacy commissioner to grant licenses for private asylums: and any person establishing a private insane asylum without such license is guilty of a misdemeanor. If his orders are disobeyed, the case shall be laid before the supreme court and be by it decided and disposed of.

A person is not excused from criminal liability, as a lunatic or insane person, except upon proof that at the time of committing the alleged criminal act he was laboring under such a defect of reason as either not to know the nature and quality of the act he was doing, or not to know that the act was wrong.

If any person in confinement, under indictment for the crime of arson, murder, or attempt at murder, or highway robbery, shall appear to be insane, the court of oyer and terminer in which the indictment is pending may, with the concurrence of the presiding judge of such court, summarily inquire into the sanity of such person, and may, for that purpose, appoint a commission to inquire into the facts of the case, and report to the court; and if the court find such person insane, or not of sufficient capacity to undertake his defence, they may remand him to such State lunatic asylum as in their judgment is meet, there to remain until

restored to his right mind, when he shall be returned to prison for further criminal proceedings, unless he be otherwise discharged, according to law.

If any person is confined under conviction for an offence for which the punishment is death, the Governor may inquire into the case, appoint a commission, and, if the convict is found insane and irresponsible, may order his removal to the State Asylum for Insane Criminals, there to remain until restored to his right mind. The medical superintendent of the asylum, whenever he thinks the convict is cured of his insanity, shall report the fact to the State commissioner in lunacy and to a justice of the supreme court of the district where the asylum is situated. If, on inquiry, they are satisfied of his recovery, they shall cause the convict to be returned to the sheriff, to be dealt with according to law.

Any person charged with arson, murder, or attempt at murder, or highway robbery, and confined in either of the State lunatic asylums as insane, may, upon the application of any superintendent of an asylum, be brought before a justice of the supreme court, who may order his removal to the Asylum for Insane Criminals at Auburn; and convicts confined in any penitentiary, if insane, may be removed there, to stay until recovered or legally discharged.

If any person in confinement under any other than civil process appears to be insane, the county judge of the county where he is confined shall institute an investigation, call two physicians and other witnesses, invite the district attorney to aid in the examination, and, if he deem it necessary, call a jury. If the person is found to be insane, the judge may order his removal to a State asylum, to remain until restored. Whenever he recovers, he may be remanded to prison for further criminal proceedings, or, if the period of his imprisonment has expired, he may be discharged. The like proceedings may be had in case of an insane person imprisoned on civil process; but notice shall be sent to the plaintiff in the case, or to his attorney.

The defence of insanity must be pleaded in a criminal case at the time the prisoner is arraigned. If a defendant is acquitted on the ground of insanity, the court, if they deem his discharge dangerous to the public peace or safety, must order him to be committed to the State Lunatic Asylum until he becomes sane.

When a defendant pleads insanity, the court may appoint a commission, of not more than three persons, to examine the accused, and report to the court as to his sanity at the time the crime was perpetrated. The commission must be attended by the district attorney, and the counsel for the defendant may take part in the proceedings. If the commission find the defendant insane, the trial must be suspended until he becomes sane; and the court, if it deem his discharge dangerous, must order that he be committed to a State lunatic asylum, to remain until cured. When he becomes sane, he must be taken from the asylum, and put in proper custody until he is brought to trial.

If a defendant in confinement under indictment at any time, before or after conviction, appears to be insane, the court, unless the defendant is under sentence of death, may in a like manner appoint a commission and the like proceedings shall be had.

If, after a defendant has been sentenced to death, there is reasonable

ground to believe he has become insane, the sheriff, with the concurrence of a justice of the supreme court or the county judge of the county, must impanel a jury of twelve persons to examine the question of the sanity of the defendant. Notice of the trial must be given to the district attorney, and he must attend. If it be found by the inquisition that the defendant is insane, the sheriff must suspend the execution until he is directed by the Governor to proceed. The Governor shall give directions for the disposition and custody of the defendant, and, as soon as he is satisfied of his restoration to sanity, must direct his execution, pursuant to his sentence, unless the sentence is commuted or the convict pardoned.

No insane person confined in any county poor-house or county asylum shall be discharged by the keeper, or by the superintendent of the poor, or by any other county authority, without an order from a county judge or judge of the supreme court, founded upon evidence that it is safe, legal, and right to make such discharge. In New York and Kings Counties, however, it shall be sufficient if there is a certificate in writing of the physician of the asylum stating that the discharge is safe and proper.

It is provided, in regard to the Utica Asylum, that no patient shall be committed for a shorter period than six months except in special cases. Whenever there are vacancies, paying patients may be committed under special agreement, in conformity with the law regarding commitments, if the cases are recent and promise speedy recovery, or when admission is sought under peculiarly afflicting circumstances.

The managers, upon the superintendent's certificate of complete recovery, may discharge any patient except one under a criminal charge liable to be remanded to prison. They may discharge any patient committed as "dangerous," or any patient sent by the superintendent or overseers of the poor, or by the judge of a county, if the superintendent certifies that the patient is harmless and will probably continue so, and is not likely to be improved by further treatment. If the asylum is full, they may discharge patients manifestly incurable that can probably be rendered comfortable in the poor-house, and give preference, in the admitting of patients, to recent cases or those of not over one year's duration. They may discharge and deliver any patient except one under criminal charge, to his relatives or friends, who will give a bond approved by the county judge for the patient's peaceable behavior, safe custody, and comfortable maintenance without further public charge. A criminal lunatic may be discharged by order of one of the justices of the supreme court or a circuit judge, when it appears safe, legal, and right to make such order. No patient shall be discharged without proper clothing and money not exceeding \$20 to pay his expenses.

Insane female convicts at Sing Sing may be removed to the asylum for insane criminals at Auburn, to stay until restored to reason, and then be returned. Whenever any convict in this asylum for insane criminals shall continue to be insane at the expiration of the term for which he was sentenced, the board of inspectors, upon the superintendent's certificate that he is harmless and is not likely to be improved by further treatment, or upon a certificate that he is incurable and can be made comfortable in the county almshouse, may cause such insane convict to be removed to the county where he was convicted or where he belongs and placed under

the care of the superintendents of the poor of such county. Or they may deliver such convict, on the expiration of his sentence, to his friends, if they will give security for his safe custody and comfortable maintenance without public charge. If the insanity continues after the expiration of the convict's sentence, he shall be kept in the asylum until adjudged a fit subject to be discharged. If any convict confined in said asylum as a lunatic is restored to reason and is ready to be sent back to prison, he shall be sent to the Auburn State Prison, even though originally sentenced to some other prison, but any convict received from a penitentiary shall be returned to the same.

The chronic pauper insane from the poor-houses of the counties shall be sent to the Willard Asylum by the county superintendents of the poor, except from those counties having asylums for the insane to which they are authorized to send insane paupers by special legislative enactment, or those counties exempted by the State Board of Charities. And all the chronic insane paupers who may be discharged not recovered from the State lunatic asylums, and who continue a public charge, shall be sent to the Willard Asylum and paid for by the counties from which they are sent.

The chronic pauper insane from such counties, and in such numbers as may be designated by the State Board of Charities, shall be sent to the Binghamton Asylum. Any of the patients who are recovered or become harmless, may be discharged by the trustees into the care of their friends. The trustees may also deliver any patient who has not recovered to his friends, on their giving proper security for his custody and maintenance. Harmless patients may also be sent back from this asylum to the counties from which they came, and placed in the care of the superintendents of the poor.

Town or county officials, in committing insane persons, are required to send them well provided with clothing and in a cleanly condition.

Any person found guilty of confining a lunatic in any other manner or in any other place than is prescribed by law, is liable to a fine not exceeding \$250, or imprisonment not over one year, or both, at the discretion of the court.

The terms lunatic and insane include all persons deranged or of unsound mind except idiots.

NORTH CAROLINA.¹

For commitment to any insane asylum, some respectable citizen, residing in the county of the alleged insane person, shall file with a justice of the peace of the county an affidavit, in prescribed form, stating that he has examined the alleged lunatic, and believes him to be insane, and a fit subject for the asylum. The justice of the peace shall have the supposed

¹ Laws of North Carolina, 1883, pp. 237-251, 581, 621.

insane person brought before him, and shall call to his assistance one or more justices of said county, and they together shall proceed to examine into the condition of mind of the alleged insane person. They shall take the testimony of at least one respectable physician, and such others as they may think proper. If any two of the justices decide that the person is insane, and no friend is found who will become bound with good security to restrain and take care of him until he recovers, the justices shall direct that such insane person be removed to the proper asylum as a patient. The justices shall make a full report of their proceedings to the clerk of the superior court of their county.

Whenever an insane person shall be conveyed to any asylum, and the superintendent is in doubt as to the propriety of his commitment, he may convene any three of the directors, who shall examine the matter. If a majority of the three so decide, the patient shall be admitted, but three directors may at any time deliver the patient to any friend who will become bound with good surety to restrain and take care of him.

Any three of the board of directors of any asylum, upon the superintendent certifying the facts, may discharge or remove any person admitted as insane, when such patient has become of sound mind, or when he is incurable, but not dangerous; or the said directors may permit a patient to go to the county of his settlement on probation if the superintendent thinks it advisable.

If an indigent patient is discharged or removed, except as being recovered, it shall be the duty of the sheriff to take him to his county. If an indigent person is discharged recovered, he shall be furnished with money to pay his expenses of travel to the county of his settlement.

All bonds for the safe keeping of insane persons shall be in prescribed form, payable to the State of North Carolina, and shall be in the sum of \$500.

Costs and expenses incurred in regard to a patient shall be paid by the county, unless the patient or those liable for his support have means to pay.

If a patient entrusted to a friend is not cared for according to the terms of the bond, any two justices of the peace of the county may send the patient to the proper asylum, unless some other responsible and discreet friend will undertake to take charge of him.

The board of public charities shall visit the asylum from time to time, and make reports to the General Assembly.

If a person found to be insane has ample means to care for his family and himself, and is capable of declaring his preference to be placed in some asylum outside the State, or if his guardian declares such preference, and two respectable physicians who have examined him, with the justices who made the examination, deem it proper, the said justices and physicians may recommend that he be placed in the asylum so chosen. The justices shall report the proceedings to the clerk of the superior court of the county. The clerk shall lay the matter before the judge of the superior court of the district where the insane person resides, and, if he approves, he shall so declare in writing, which shall be recorded by the clerk. The said judge shall appoint some friend of the patient to remove him to the asylum designated, and a certified copy of the proceedings

shall be a sufficient warrant to authorize such friend to act in the matter of his removal.

In the commitment of patients to the asylums, priority shall be given to the indigent; but the boards of directors may also consider the curability of patients. If there is sufficient room, paying patients may be received. If a person found insane cannot be at once committed to an asylum, and he is dangerous to be at large, and cannot otherwise be properly restrained, he may be temporarily committed to the county jail. When a patient kept in the county jail is fit to be discharged, it shall be the duty of the board of county commissioners, on the presentment of a certificate of two respectable physicians, and of the chairman of their board stating the fact, to make an order for his discharge.

The judges of the superior court, in their respective districts, shall commit to the proper asylum, if there be room therein, as a patient, any person who may be confined in jail, on a criminal charge of any kind, or upon a peace warrant, whenever the judge shall be satisfied, by the verdict of a jury of inquisition, that the alleged criminal act was committed while such person was insane, and that such insanity continues; and also any person acquitted upon a criminal charge where, on the trial of such person, insanity was relied upon as a defence; provided, the fact of insanity was found as a distinct issue to exist at the time of such trial, or is so found by a jury of inquisition, as such judge may direct.

OHIO.¹

Each county is entitled to send patients to the State asylums in proportion to its population. No person is entitled to admission unless he has lived in the State one year next preceding the date of his application and his insanity appeared while he resided in the State. The medical superintendent of each asylum shall inform the probate judges of the different counties in his district, each month, of the number of patients to which each county is entitled, and of the number in the asylum from each county. If the quota is not full, the probate judge may, at any time, send an acute case conformably to the laws. Patients may be transferred from one asylum to another upon the order of the Governor. and the recommendation of the medical superintendents of the asylums affected. Patients in the asylums shall be maintained at the expense of the State.

For the commitment of patients to asylums, some resident citizen of the proper county shall file with the probate judge of the county an affidavit, stating that he believes the person in question to be insane, or

¹ Revised Statutes of Ohio, 1880, Second Edition, Revised, Vol. I. pp. 204, 329-339, 384; Vol. II. pp. 1505-1509, 1688, 1701, 1702, 1720, 1730, 1736, 1831. Laws of Ohio, 1881, pp. 62, 102; 1883, pp. 103, 104, 181, 182.

unfit to be at large, on account of insanity, and giving the place of his legal settlement. The judge shall order the alleged insane person to be brought before him on a day named, which shall be not later than five days after the filing of the affidavit. He shall summon witnesses, one of whom shall be a respectable physician, and, if the insanity is disputed, he shall summon such witnesses as the parties opposing desire. If the alleged insane person is not in a fit condition to be brought into court, the judge shall visit him personally, and certify that he has ascertained the condition of the person by actual inspection, and the proceedings shall go on in the absence of such insane person. If the judge, after hearing the testimony, is satisfied that the person is insane, he shall cause a certificate to be made by the medical witness, which shall set forth information on twenty-one prescribed points covering the history and condition of the patient; he shall then apply to the superintendent of the asylum in the proper district, transmitting copies of the physician's certificate and his own finding in the case. If the patient can be received, the superintendent shall notify the probate judge, and he shall issue his warrant to the sheriff, or some suitable person or persons, to take the patient to the asylum. The relatives of the patient shall have the right, if they desire it, to convey the patient to the asylum. The receipt of the patient shall be endorsed on the warrant, which shall be returned to the probate judge and filed with the papers in the case. Before the probate judge applies for the commitment of the patient, the medical witness must make a certificate that the patient is free from all infectious diseases and from vermin.

The relatives of any person charged with insanity, or who is found to be insane, shall in all cases have the right to take charge of and keep him; and, in such case, the probate judge who holds the inquest shall deliver the insane person to such relatives. When a patient is sent to the asylum, the probate judge shall see that he has the proper amount of clothing.

If the patient cannot be admitted to the asylum, the probate judge shall have the sheriff, or some other suitable person, take charge of him, until such time as he can be received, and, if necessary, the judge may direct the confinement of the patient in the county infirmary or jail, but in a room separate from the criminals. The judge shall see that things necessary are furnished, and, if there is no physician regularly employed to attend the jail or infirmary, he may employ one to attend the lunatic.

If an insane person not entitled to admission to the asylum is at large and dangerous, the probate judge may order him to be confined, and provided for, either by some suitable person, or in the jail or infirmary, as above stated. When the attending physician certifies that such person is restored to reason, or that it is no longer necessary to confine him, or if his friends agree to take care of him, the probate judge shall order his discharge. Immediately after the removal, death, escape, or discharge of any patient, or return of an escaped patient, the superintendent shall notify the probate judge of his county; and he shall also, in case of death, notify one or more of the relatives of the deceased patient.

Incurable and harmless patients may be discharged by the superintendent and one trustee when it is necessary to make room for a recent case

from the same county. The superintendent shall notify the probate judge, who shall by his warrant order the removal of the patient to the township of which he is an inhabitant. When a patient is discharged as cured, the superintendent may furnish him with suitable clothing and money not exceeding \$20.

If a patient discharged as cured becomes a second time insane, the facts shall be set forth in an affidavit by a respectable physician, and the probate judge shall make application to the superintendent of the proper asylum for his commitment. The same proceedings shall then be had as in case of a person found insane upon inquest held for the purpose, as above stated.

In the admission of patients, selection shall be made as follows: (1) Recent cases (of less than a year's duration). (2) Chronic cases presenting the most favorable prospect of recovery. (3) Those for whom applications have been longest on file, other things being equal. (4) No county shall have more than its due proportion of patients, unless there is some other county in the district without patients enough to fill its quota.

If the friends of a patient ask for his discharge from the asylum, the superintendent may require a bond for the safe keeping of such patient; but no patient charged with, or convicted of, homicide, shall be discharged without the consent of both the superintendent and the board of trustees of such asylum.

The commissioners of every county in which there now is, or may hereafter be established, a county infirmary, shall provide separate apartments for the safe keeping and treatment of lunatics and idiots who have not been, and cannot be, received into either of the lunatic asylums, or who have been discharged therefrom. The directors of the infirmary shall provide for the safe keeping, support, and treatment of patients who are a charge upon the county, and for the treatment and care of such lunatics in their county as may be admitted as pay patients, under regulations made by the directors. When rooms are provided in the county infirmary, insane persons in the county jail shall be transferred to such infirmary.

The directors of the Ohio Penitentiary shall provide a suitable department for the reception of lunatic or insane convicts, to accommodate the convicts that become insane therein.

If at any time before the indictment of a person confined in jail charged with an offence, notice in writing be given by any citizen to the sheriff or jailer that such person was insane or an idiot at the time the offence was committed, or has since become insane, the sheriff or jailer shall forthwith notify the probate judge, clerk, and prosecuting attorney of the proper county, and an examining court shall be held; and if the judge find that such person was an idiot when he committed the offence, or was then and still is insane, or afterwards became and still is insane, he shall, at his discretion, proceed as in the case of a person found insane by inquest held. When such lunatic is restored to reason, the prosecuting attorney shall have him recommitted to the jail to answer the offence charged against him. If the prosecuting attorney fails to do this, the superintendent of the asylum or infirmary shall discharge such patient.

When a person is under indictment, or held for trial or sentence, and it is suggested to the court that the person is not then sane, and the certificate of a respectable physician to the same effect is presented to the court, proceedings shall be had to try his sanity, and the question may be submitted to a special jury. If the person is found insane, the probate judge shall be notified, and shall deal with him as an insane person found so by inquest, and upon recovery he shall be brought to trial or sentence. If the patient is discharged into the care of his friends, the bond given for his support and safe keeping shall contain a condition that he shall, when restored to reason, answer to the offence charged in the indictment, or of which he has been convicted, at the next term of the court thereafter.

When a person tried upon an indictment is acquitted on the sole ground that he was insane, that fact shall be certified by the clerk to the probate judge, and the defendant shall not be discharged, but shall be proceeded against as insane, and the verdict shall be *primâ facie* evidence of insanity.

When a convict in the penitentiary becomes insane, the warden shall give notice to the physician for the prison and the superintendent of the Columbus Asylum for the Insane, who shall examine the convict, and, if they find him insane, shall certify the fact to the warden, who shall forthwith put the insane convict in the department prepared for that purpose.

Such insane convicts shall be treated by the physician and by the superintendent of said asylum, and when they are restored, or it is safe for them to work, they shall again be put at hard labor, according to their sentence. If a convict is insane at the expiration of his term of imprisonment, the probate judge of the county from which he was sent shall take him in charge, and order him to be confined, or otherwise disposed of and provided for, as directed by law.

If a convict, at any time before the full execution of his sentence, be represented to the Governor of the State to be insane, the Governor shall inquire into the facts. If he thinks it proper, he may pardon the convict, or commute the sentence, or suspend its execution for a definite time, or from time to time. He may order the convict to be confined in the penitentiary, or a jail, or conveyed to an asylum for the insane for treatment.

If the sentence is suspended, and the convict recover his reason, the sentence shall then be fully executed.

If a convict sentenced to death appears to be insane, the sheriff shall give notice to a judge of the court of common pleas of the judicial district, and shall summon a jury of twelve men. The judge, clerk, and prosecuting attorney shall attend the inquiry, and, if it be found that the convict is insane, the judge shall suspend the execution. The Governor shall be notified of the finding, and may, as soon as he is convinced that the convict has recovered, issue a warrant directing his execution.

OREGON.¹

The insane have been kept under the care of a contractor, the State paying a certain sum per week for the board of each patient.

The county judge, upon application of any two householders in his county in writing, under oath, setting forth that any person by reason of insanity is suffering from neglect, or is unsafe to be at large, shall cause such insane person to be brought before him, and shall cause to appear, at the same time and place, two or more competent physicians, and the prosecuting attorney of the district, or his deputy, or, in the event of his absence, some practising attorney to represent the State. If the physicians, after careful examination, shall certify on oath that the person is insane or idiotic, and the county judge shall find, on the certificate and the testimony produced, that the person is insane or idiotic, he shall cause the insane person to be conveyed to, and placed in charge of, the party or parties contracting to keep and care for the insane and idiotic of the State. An appeal may be taken from the decision of the county judge in the same manner as is provided for appeal from the judgment of county courts in other cases. The appeal may be taken either by the householders making application, or by some one on behalf of the alleged insane person, or by the prosecuting attorney on behalf of the State.

The judge shall make inquiry, and, if he finds that the person found insane has any property, he shall appoint a guardian to take care of the same, and said estate shall be applied to supporting the family of the insane person and to paying the expenses of his commitment and support. All the proceedings shall be recorded in the county court, and, if the patient is adjudged insane, a warrant shall be made reciting the findings of the judge, the causes of the insanity when ascertained, and the name, age, nativity, and present residence of the patient. The county judge shall designate some proper person or persons to take the patient to the asylum. Paying patients shall pay according to the terms made with the contractors.

The Governor is required to visit and examine the insane confined by law once every six months. He shall also appoint a physician who shall visit and inspect the institution where they are kept as often as once every month, and oftener if necessary. He shall see that the terms of the contract made with the State are fully carried out. He shall have power to discharge any patient when he considers that he is cured. In case of a disagreement between the physician and the contractor as to the sanity of a patient, the Governor may employ some other physician to consult upon the case. Whenever a patient dies, or is ordered to be discharged by the physician, the Governor and the Secretary of State shall be notified, and no board shall be paid after the date of the patient's death or the order for his discharge.

The courts of the State shall have power to commit to the care of the

¹ General Laws of Oregon, 1843-1872, pp. 361, 364, 620-623. Laws of Oregon, 1878, pp. 71-77; 1880, pp. 49-51; 1882, pp. 4-6.

contractors any person who has been charged with an offence punishable with imprisonment or death, who shall have been found to be insane or idiotic, and who continues to be insane or idiotic.

If the defence in any criminal case be the insanity of the defendant, and he is found not guilty on that ground, the court must, if it deems his being at large dangerous, order him to be committed to any lunatic asylum authorized by the State to receive and keep such persons until he becomes sane, or is discharged according to law.

Whenever any convict confined in the State Prison shall, in the opinion of the physician of the prison, be insane or idiotic, the physician shall make oath to the same before the county judge of the county in which the prison is located. The judge shall summon one or more competent physicians to make an examination, and, if in their opinion the convict is of unsound mind, the judge shall report the case to the Governor, who may, in his discretion, cause the convict to be removed to the place provided for the insane and idiotic.

PENNSYLVANIA.¹

The trustees of any asylum for the insane where there are women detained may appoint a skilful female physician to have charge of the female patients.

The Board of Public Charities shall appoint a committee of five of its members to act as the committee on lunacy. One of this committee shall be a member of the bar, and one a practising physician, and each shall be of at least ten years' standing in his profession. The committee on lunacy shall examine into the condition of the insane throughout the State, and into the management of the hospitals, public and private, and all other places in which the insane are kept for care and treatment or detention, and shall make an annual report. The board, among other things, shall have power, with the consent of the chief justice of the supreme court and of the attorney-general, to make rules and regulations:

1. For the licensing of all asylums and places where more than one patient is kept, excepting jails and such hospitals as may be specially exempted from the duty of obtaining a license.

2. For securing the proper treatment of all insane persons wherever kept, and to guard against the improper detention of such persons.

3. For determining the forms to be observed in committing, transferring, and discharging all lunatics except those committed by order of a court of record.

¹ Brightly's Purdon's Digest of Laws of Pennsylvania, 1700-1872, Vol. 1, pp. 27, 391, 392. Vol. 2, pp. 969-989. Purdon's Annual Digest, 1873-1878, pp. 1893, 1894. Laws of Pennsylvania, 1879, p. 98; 1881, pp. 83, 84, 173; 1883, pp. 21-30, 92.

There shall be appointed in each county where there is a house or place for the care or detention of the insane a board of visitors of not less than three persons. Women may be appointed members of these boards.

The board of public charities shall make rules to insure to the patients the admission to see them of all proper visitors, being members of their family, friends, agents, or attorneys.

No person shall be received as a patient for treatment or for detention into any house or place where more than one insane person is detained, or into any house or place where one or more insane persons are detained for compensation, without a certificate signed by at least two physicians, residents in the commonwealth, who have been in the practice of medicine for at least five years, stating that they have examined separately the person alleged to be insane and believe that he is insane, and that the disease is of a character which requires that the person should be placed in a hospital or other establishment for care and treatment; that they are not related by blood or marriage to the patient, nor in any way connected with the hospital in which it is proposed to place him. This certificate must be made within one week after the examination of the patient, and within two weeks of the time of his admission to the hospital. It shall be sworn to before a judge of the county where the examination took place, and the judge shall certify to the genuineness of the signatures, and to the standing and good repute of the signers.

The person or persons requesting the admission or detention shall sign a writing stating that the person has been removed, and is to be detained at his or their request under the belief that such detention is necessary and for the benefit of the insane person. There shall also be furnished to the persons in charge of the hospital or house a statement signed by the persons requesting the detention of the patient, giving his name, age, residence, occupation, and a list of his relatives, also the circumstances connected with the patient's insanity, and the names and address of his medical attendants for two years.

If, through inadvertence, any of the answers are omitted, and there is no reason to doubt the good faith of the parties, the patient may be received and kept, if within seven days the statements are made complete. The regular medical attendant of the house shall, within twenty-four hours after the reception of any patient, examine him, and in case he is of opinion that a detention is not necessary for the benefit of the patient, he shall notify the person or persons at whose instance the patient is detained, and unless within seven days satisfactory proof is exhibited of such necessity the patient shall be discharged and restored to his family or friends. At the time of such examination the medical attendant shall inform the patient that if he desires to communicate with any person or persons they will be summoned, and any proper person or persons, not exceeding two, shall be permitted to have a full and unrestrained interview with the patient.

The statements furnished at the time of the reception of the patient, and the statement of the medical attendant of the house, shall be sent to the committee on lunacy, and there shall be a report, at least once in six months, by the medical attendant, on the condition of each patient.

Persons detained as insane may, under certain restrictions and regulations, have any medical practitioner they desire to treat them for all maladies other than insanity.

All persons detained as insane shall, in the discretion of the superintendent, be allowed to correspond under seal with persons outside the asylum, and they shall have the unrestricted privilege of writing once a month to any member of the committee on lunacy.

All persons other than criminals, who have been detained as insane, shall, as soon as they are restored to reason, in the opinion of the medical attendant of the house, be forthwith discharged. If the discharged patient is in indigent circumstances, he shall be furnished with raiment and with funds sufficient to travel to his home.

The committee on lunacy shall be notified of all discharges within seven days thereafter.

The committee on lunacy may at any time order the discharge of a patient (other than a person committed after trial and conviction for crime, or by order of court). But such order shall not be made unless notice is first given to the person in charge of the asylum, and to the persons who caused the patient to be detained, and the committee shall not sign an order for discharge unless they have personally examined the case of the patient.

Persons may voluntarily place themselves in an asylum for a period not exceeding seven days, by signing an agreement giving authority to detain them, and they may from time to time renew the authority for periods not exceeding seven days each; but every such agreement must be signed in the presence of some adult person attending as a friend of the patient. Such agreement must also be signed in the presence of the person in charge of the house, or the medical attendant, who shall himself subscribe it.

Whenever the State Board of Commissioners of Public Charities shall deem it expedient to transfer any indigent insane person in a county poor-house, or almshouse, or otherwise in the custody of the directors or overseers of the poor, to the State hospitals for the insane for care and treatment, they shall petition the president judge of the court of common pleas of the proper county, who shall notify the directors or overseers of the poor to appear, and show cause why such removal should not take place. If, upon hearing, the judge deem it best, he shall make an order directing the removal of such insane person to the State hospital for the proper district.

The expense of caring for indigent insane persons in the State hospitals shall be divided between the State and the county, the county not paying for each person over two dollars a week.

Insane persons may be placed in a hospital by order of any court or law judge after the following course of proceedings: On statement in writing of any respectable person that a certain person is insane, and requires restraint, the judge shall appoint at once a commission to inquire into, and report on, the facts of the case. This commission shall be composed of three persons, one of whom, at least, shall be a physician, and another a lawyer. If, after hearing the evidence, they think it is a suit-

able case for confinement, the judge shall issue his warrant for such disposition of the insane person as the circumstances of the case require,

If an insane person is manifestly suffering from want of proper care, any law judge shall order him to be placed in some hospital for the insane, at the expense of those legally bound to support him. But in every such case there must be notice to the persons affected, and a hearing had in the matter. Persons who have voluntarily bound themselves for the support of any patient in the hospital, may remove the patient to avoid further responsibility.

Pennsylvania State Lunatic Hospital. — The admission of insane patients from the several counties shall be in the ratio of their insane population. Paying patients shall pay according to the terms directed by the trustees. Indigent persons and paupers shall be supported in the hospital by the townships and counties to which they are chargeable. The several constituted authorities having care of the poor in the several counties and towns shall have authority to send to the asylum such insane paupers as they deem proper inmates.

If any person shall apply to any court of record, having jurisdiction of offences which are punishable by imprisonment for ninety days or more, for the commitment to the asylum of any insane person within the county, it shall be lawful for such court to either inquire into the fact of insanity in a summary way, giving due notice to the alleged lunatic and his friends or kindred, or by awarding an inquest, at the option of the court. If the court is satisfied that such person is by reason of insanity unfit to be at large, or is suffering any unnecessary duress or hardship, it shall commit the person to the asylum; but in all cases the court may use its discretion in sending any insane person to the hospital, and may cause him to be confined elsewhere if it believes the case incurable. In order of admission, the indigent are to have precedence over the rich, and if there is not room for all, recent cases shall have preference over those of long standing.

The friends or relatives of any insane person, a patient in the hospital, may apply to the court of common pleas of Dauphin County, or to the president judge of said court in vacation, to deliver over to them the person there confined. The court or judge, if it is safe for the community, may do this, provided security is given that such lunatic shall do no injury to the person or property of anyone when at large.

The courts may commit to the asylum any person who, having been charged with an offence punishable by imprisonment or death, shall be found to have been insane at the time the offence was committed, and who still continues insane.

If any prisoner confined in the Eastern Penitentiary develops such marked insanity as to render continued confinement in the penitentiary improper, and removal to the State Lunatic Hospital necessary to his restoration, the inspectors of the penitentiary shall submit the case to a board composed of the district attorney of the county of Philadelphia, the principal physician of the Pennsylvania Hospital for the Insane at Philadelphia, and the principal physician of the Friends' Insane Asylum at Frankford, and in case a majority cannot at any time when required attend, a competent physician or physicians shall be appointed by the

court of quarter sessions of the county of Philadelphia in the place or such as cannot attend. If any two of the board certify that the prisoner is insane, the Governor shall, if he approves, direct that the insane prisoner be removed to the State Lunatic Hospital. If any such insane prisoner in the hospital so far recovers, before his sentence has expired, that his return to the penitentiary will be safe and proper, the trustees shall cause such prisoner to be returned to the penitentiary. Due notice of all such removals or transfers shall be given to the clerk of the court of quarter sessions of the county from which such prisoners were sent to the penitentiary.

No person shall be sent to this lunatic hospital who shall have been charged with homicide, or of having attempted to commit the same, or to commit any arson, rape, robbery, or burglary, and have been acquitted of any such offence on the ground of insanity. Where the court trying such person, or hearing the case, shall be satisfied that it is dangerous for such lunatic to be at large on account of having committed or attempted to commit either of the crimes aforesaid, such person shall be continued in the penitentiary or the prison of the county; provided that the court may send the person to said lunatic hospital, if it is satisfied that a cure of the insanity may be speedily effected by so doing.

In every case of an insane criminal or a dangerous lunatic sent to the asylum, if the trustees of the asylum and the superintending physician are satisfied there is no reasonable prospect of a cure of the insanity being effected by a retention of the lunatic in the hospital, they shall cause him to be removed to the prison of the proper county, or to the penitentiary from which he was sent.

Western Pennsylvania Hospital.—Beside provisions in substance the same as those in regard to commitment to and discharge from the Pennsylvania State Lunatic Hospital, it is further specially provided as follows: Any indigent insane patients, not criminals, that are regarded by the board of managers of the hospital and the physician as incurable, shall be returned to the constituted authorities having charge of the poor in the city, township, or poor district, which may be chargeable with the support of such poor patients. If any criminal a patient in the hospital recovers his sanity, the sheriff shall be notified, and thereupon such sheriff shall remove such person to the jail of the proper county, there to be held in strict custody subject to the further order, decree, or sentence of the court by which he was committed to the hospital. If any indigent patient is cured of his insanity, the principal physician shall notify the commissioners of the proper county to remove such cured person from the hospital.

If any county liable for the support of insane patients fails for a period of three months to pay the amount due for such support, the managers of the hospital may return to the jail of the said county those insane persons whose expenses remain unpaid, excepting those cases which have been sent to the hospital from the penitentiary.

Miscellaneous Provisions.—It shall be lawful for any court of common pleas to issue a commission to inquire into the lunacy of any person in the commonwealth, or having property therein. On the return of any inquisition finding that the person named is a lunatic, the court may

commit the custody and care of the person, or estate, or both, to such person or persons as they deem most suitable. Whenever any person shall be found by inquisition to be insane, the committee of the person or of the estate of such insane person, and also the clerk of the court into which the inquisition has been returned, shall forthwith send to the committee on lunacy a statement signed by the committee of the lunatic giving the name, age, sex, and residence of the lunatic, and the residence of the committee; and, upon any change in the residence or place of detention of the lunatic, notice shall forthwith be given to the committee on lunacy. The committee on lunacy shall have power to visit, examine, and look after such lunatic, and may apply to the proper court to make such orders for the care or maintenance of the lunatic as the case may require. Appeal from any order thus made may be taken to the supreme court. Adjudged lunatics shall not be arrested on civil process, and, if they are so arrested, shall be discharged by the court from which the process issued.

If any person not an adjudged lunatic is imprisoned in any civil action and appears to be insane, the jailer shall notify two or more aldermen or justices of the peace, who shall attend at the jail and make an examination, and, if they find the prisoner of unsound mind, they shall certify the same to the prothonotary of the court of common pleas of the county. He shall bring the matter before the court, and a day shall be fixed for a hearing, and the creditor, plaintiff in the case, shall be notified. If the court, on hearing the case, is satisfied that the prisoner is insane, an order shall be made for his discharge from confinement; provided that if it appears to the court that he is not fit to go at large, the court may make an order that he be detained in custody or delivered to his kindred or friends in the manner provided in the case of a lunatic charged with a crime or misdemeanor.

Whenever upon the trial of any person charged with a crime or misdemeanor it is given in evidence that such person was insane at the time of the commission of such offence, and he is acquitted by the jury especially on this ground, the court may order him to be committed to some place of confinement for safe keeping or treatment. If after a confinement of three months any law judge is satisfied that the prisoner has recovered, and that the paroxysm of insanity in which the criminal act was committed was the first and only one he had ever experienced, he may order his unconditional discharge; if, however, it appear that such paroxysm of insanity was preceded by at least one other, then the court may in its discretion appoint a guardian of his person and commit the care of the prisoner to him, the guardian giving bonds to pay for any damage his ward may commit; provided always, that in case of homicide, or attempted homicide, the prisoner shall not be discharged unless, in the unanimous opinion of the superintendent and the managers of the hospital and the court before which the prisoner was tried, he has recovered and is safe to be at large. If a person indicted for an offence shall, upon arraignment or upon the trial, be found to be a lunatic, the court shall proceed to confine him as above stated. In every case in which a person charged with any offence is brought before the court to be discharged for want of prosecution, and shall, by the oath of one or more credible persons,

appear to be insane, the court shall order the district attorney to send before the grand jury a written allegation of such insanity, and the grand jury shall make inquiry into the case, and make presentment of their finding, and thereupon the court shall order a jury to be impanelled to try the insanity of such person. Notice of the trial shall be given to the next of kin, and, if the jury find such person insane, he shall be committed by the court as aforesaid.

If the kindred or friends of any person who may have been acquitted as aforesaid on the ground of insanity, or, in default of such kindred or friends, the guardians, overseers, or supervisors of any county, township, or place, shall give proper security that such lunatic shall be restrained from the commission of any offence, the court may make an order for his delivery to his kindred or friends, or to such guardians, overseers, or supervisors.

Whenever any person is imprisoned, either convicted of any crime, or charged with any crime, and acquitted on the ground of insanity, application in writing, under oath, stating that such prisoner is believed to be insane, and requesting that such prisoner be removed to a hospital for the insane, may be made to any judge of any court having immediate cognizance of the crime with which such prisoner is charged, or of the court by which such prisoner has been convicted, to appoint a commission of three citizens. One of the commissioners shall be of the profession of medicine and one of the profession of law, and it shall be their duty to inquire into and report upon the mental condition of the prisoner. If, by the report of the commissioners, it appears that the prisoner is of unsound mind and unfit for penal discipline, the judge issuing the commission, or any other judge of the same court, may make an order directing the removal of such prisoner to the State Hospital for the Insane nearest to the place of imprisonment, there to be kept and cared for: Provided, that whenever a hospital is established by the State especially for the care of insane criminals, the order of removal shall be to that hospital.

In all cases where any person who may have committed any criminal act and is dangerous to the community shall be found to be insane in the manner provided by law, any court having cognizance of the offence with which such person is charged may commit him to the proper asylum for the insane, to remain until restored to sanity.

Whenever any person sent to the hospital under these provisions has been so far restored to mental sanity as no longer to need the care or restraint of the hospital, the judge who committed him may, if the term of imprisonment for which such prisoner was sentenced has not expired, remand him to prison to serve out the unexpired term of sentence, or if such prisoner became unsound in mind after the alleged crime and before conviction, the judge may remand such prisoner for trial; but, if the term for which such prisoner was sentenced has expired, or if the crime with which the prisoner is charged was committed during his probable insanity, the judge may order the patient to be discharged. If the term of sentence expires while the prisoner remains uncured in the hospital, the judge, upon the due application of relatives or friends of such patient, and upon proper security being given for the custody and care of such

insane person, may make an order for his discharge from the hospital and delivery into the control of the person or persons applying therefor.

Insane criminals in eustody shall not be received into an asylum except when delivered by a sheriff of the county, or his deputy, together with an order of the proper court. Nor shall such criminals be discharged from a hospital, or other place of detention, save on a like order, and to the sheriff, or his deputy, producing the order.

Whenever any person detained in any jail or prison is insane, or in such a condition as to require treatment in a hospital for the insane, it shall be the duty of any law judge of the court, under whose order the person is detained, upon application, to direct an inquiry into the circumstances, either by a commission or otherwise, as he shall deem proper, with notice to the committee on lunacy; and, if the judge shall be satisfied that the prisoner requires treatment in a hospital, he shall direct the removal of the person from the jail or prison to a State hospital.

The trustees, managers, and physician of any hospital in which a criminal is confined by order of any court, or to which a lunatic has been committed after an acquittal of crime, shall not discharge the prisoner, or lunatic, without the order of a court of competent jurisdiction; and in case such lunatic, whether a convict or acquitted, is not set at large, but is to be removed to any place of custody other than a hospital, the order for removal shall not be made without notice to the committee of lunacy, and time given them to investigate the case and be heard.

RHODE ISLAND.¹

Whenever any person is a lunatic, or so furiously mad as to render it dangerous for him to be at large, any trial justice or clerk of a justice court within the county, on complaint in writing, under oath, shall issue his warrant, directing that such person be brought before that or some other justice court for examination. If the court, on such examination, find the complaint true, it shall, unless security is given that said insane person shall not be permitted to go at large until restored to soundness of mind, commit such person either to the Butler Hospital for the Insane or to the State Asylum for the Insane. Such patient shall be detained in the hospital until it is found by some justice court of the county where he is detained that he is restored to soundness of mind, or is no longer under need of restraint, or until security is given to the court, as aforesaid, for his safe keeping. The expense of caring for any such lunatic shall be paid out of his estate, if he has any; if he has no estate, then by the town liable for his support.

¹ Public Statutes of Rhode Island, 1882, pp. 195-204, 425, 430, 446, 467, 720. Acts and Resolves, R. I., January session, 1883, pp. 129, 130, 146.

On petition, stating that any person is insane, and ought to be placed in a hospital, or restrained, any justice of the supreme court may forthwith appoint not less than three commissioners to inquire into and report all facts bearing on the case, together with their opinion whether such person, if insane, should be placed in one of the insane asylums. The commissioners shall fix a time for a hearing, give notice to the party alleged to be insane, hear all evidence offered, and make an examination of the supposed insane person. The court may, pending the inquisition, give directions for the care and restraint of such insane person, and may, if necessary, commit him to one of the asylums, or to the county jail, as is most convenient and proper. On the coming in of the report of the commissioners, the justice may order the person complained of to be confined in the Butler Hospital for the Insane, or at the State Asylum for the Insane, or in some other curative hospital for the insane of good repute within or without the State, or may dismiss the petition altogether.

Any person thus committed may, although not restored to sanity, be discharged from the asylum upon the written recommendation of the trustees and superintendent of the asylum, by an order of any justice of the supreme court, made in his discretion.

The parents or guardian of any insane person, if he have any, and, if not, his relatives and friends, or, if a pauper, the overseers of the poor of the town to which he is chargeable, may have him removed to and placed in the Butler Hospital or State Asylum for the Insane, if he can be there received; and if not, in any other hospital for the insane of good repute, managed under the supervision of a board of officers appointed under the authority of this or some other State; but the superintendent of such hospital shall not receive any person into his custody in such case without a certificate from two practising physicians of good standing that such person is insane.

Any persons who, of their own accord, without any obligation imposed by law, have become responsible for the payment of the expenses of any insane person in an asylum, may, if it is necessary in order to terminate further responsibility on their part, remove such person therefrom.

The superintendent of any asylum for the insane within the State may, on the application of any relative or friend, and with the approbation in writing of the visiting committee of the trustees, discharge any person not committed by process of law.

On petition to a justice of the supreme court by some person, not an inmate of the asylum, setting forth that he has reason to believe, and does believe, that a person confined therein is not insane, and is unjustly deprived of his liberty, the justice, in his discretion, may issue a commission, such as has been described above, to inquire into the patient's condition. No person shall visit or examine the patient, except the commissioners, and they only at the asylum, and not elsewhere. On the coming in of the commissioners' report, the court may confirm or disallow the same, and order the discharge of such person, or dismiss the petition altogether, as the truth shall seem to require. It is not intended by any of these provisions to impair or abridge the right to the writ of *habeas corpus*. No commission for the purpose of committing or discharging an insane person shall be issued by a justice of the supreme court, as above stated,

until the person applying therefor has given security for the payment of all expenses of the proceedings, and for the support of the insane person in the asylum, if committed thereto.

Whenever any person imprisoned, awaiting trial, in a criminal case, is deemed insane, the Agent of State Charities and Corrections, or the clerk of the supreme court or court of common pleas, in any county of the State other than the county of Providence, may petition any justice of the supreme court to make an examination. If, upon such examination, the justice is satisfied that the person thus imprisoned is insane or idiotic, he may order the removal of such prisoner from the jail to the State Asylum for the Insane, if he can be there received; if not, to the Butler Hospital for the Insane. Upon the restoration to reason of any person so removed, any one of the justices of the supreme court, in his discretion, may order that the prisoner be remanded to the place of his original confinement, to await his trial for the offence for which he stands committed.

Whenever, on the trial of any person upon an indictment, the accused shall set up in defence his insanity, and the jury shall acquit him on that ground, the court, if it deem the going at large of such person dangerous to the public peace, shall certify its opinion to the Governor of the State. The Governor may make provision for the support of the person so acquitted, and cause him to be removed to the State Asylum for the Insane, or other institution for the insane, either within or without the State, during the continuance of such insanity. The expenses of his maintenance shall be paid by the State, but may be collected out of the estate of such insane person, if he has any.

On petition of the Board of State Charities and Corrections, stating that any person convicted of crime, and imprisoned for the same in the State Prison, or in the Providence county jail; or, on petition of the clerks of the supreme court or court of common pleas, in the other counties of the State, that any convict in the jails of their respective counties is insane, idiotic, or in such a state of impairment of body, or mind, or both, as tends directly to insanity, idiocy, or dementia, or to a permanent incapacity for mental or physical labor, any justice of the supreme court may, in his discretion, order an examination. If, upon such examination, said justice is satisfied that the convict is insane, or in any of the states of mind or body above mentioned, he may order the removal of such prisoner from the State Prison, or any of the said jails, to the State Asylum for the Insane, the State Almshouse, or to Butler Hospital, as, in his judgment, he shall deem best. Such order of removal shall be only during the term, and until the expiration of the prisoner's sentence.

Upon restoration to reason or to health, both of body and mind, of the prisoner, either of the justices of the supreme court may, in his discretion, remand him to the place of his original confinement, to serve out the remainder of his term of sentence.

The Agent of State Charities and Corrections and the Secretary of State shall constitute a commission to visit and examine all places and institutions in the State where insane persons are confined, and to receive and examine all complaints, communications, and letters from, or relating to, any insane person, or person alleged to be insane. They shall investigate

any case that seems to require it, and, in their discretion, may petition a justice of the supreme court to have an examination made of any person's condition, in the manner above described, and said justice may, in his discretion, cause the person restrained to be discharged.

Whenever the Agent of State Charities and Corrections shall make complaint, in writing, to the supreme court that any person reputed to be idiotic, lunatic, or insane, is not humanely or properly cared for, or is improperly restrained of his liberty, in any town, the court shall examine into the circumstances of the case, and, if the complaint is found true, shall order and cause such idiotic, lunatic, or insane person to be removed to the State Asylum for the Insane.

Every pauper lunatic, having no legal settlement in the State, who, in the opinion of the Board of State Charities and Corrections, is insane, shall be sent by said board to the State Almshouse, or to the State Asylum for the Insane, there to be maintained at the expense of the State. The board may send to this asylum any insane pauper who has a legal settlement in any town, to be kept on such terms as may be agreed upon. The Agent of State Charities and Corrections shall visit all town asylums and all places where any insane person is kept, to see that no insane person is improperly confined or improperly cared for, and he may discharge at any time from any institution any insane person who has been committed thereto upon his order. No insane pauper shall be detained in any town asylum, poor-house, lockup, or bridewell for a longer period than five days, unless, in the opinion of the Agent of State Charities and Corrections, he is properly cared for.

The Board of State Charities and Corrections may receive for treatment and care any person who shall be an inhabitant of the State who, in their opinion, is insane, upon such terms for treatment and care as may be agreed upon between said board and some responsible person, upon the written certificate of two practising physicians that, in their opinion, such person is insane.

SOUTH CAROLINA.¹

The following persons shall be entitled to admission as patients to the State Hospital for the Insane: (1) All persons found to be idiots or lunatics by inquisition from the probate or circuit courts, or on trial in the circuit court. (2) Where the admission is requested by the husband or wife, or, where there is no husband or wife, by the next of kin of the idiot or lunatic. (3) All persons declared lunatics, idiots, or epileptics, after due examination by one trial justice and two licensed

¹ General Statutes of South Carolina, 1882, pp. 25, 270, 472-476, 751. The Code of Civil Procedure of South Carolina [bound with Gen. Stats.], pp. 15, 21, 22.

practising physicians of the State. In the case of a pauper, the admission shall be at the request of the county commissioners of the county where the pauper has his legal settlement; otherwise the admission shall be at the request of the husband or wife or next of kin of the idiot, lunatic, or epileptic.

Idiots and lunatics from other States may, when there is room in the asylum, be admitted on such evidence of their lunacy or idiocy as the regents regard sufficient, and they shall pay the same rates as citizen subjects.

No lunatic, idiot, or epileptic, declared a fit subject for the asylum by a trial justice and two physicians, or sent from another State, shall be retained in the institution more than ten days, unless an order for his retention is made by the medical attendant and three, at least, of the regents of the asylum after a full examination of the patient's state of mind. Upon such order being made, the secretary of the board of regents shall make out certified copies of the papers in the case and send them to the judge of probate of the county where the patient resides, and said judge shall thereupon make such order in regard to the custody of the estate of the lunatic as would have been made had the proceedings been under a writ *de lunatico inquirendo*.

Whenever a judge of probate or a judge of the circuit court shall direct any trial justice to inquire as to the idiocy, lunacy, or epilepsy of any person, or when information on oath shall be given to any trial justice that a person is an idiot, lunatic, or epileptic, and is a pauper, such trial justice forthwith shall call to his assistance two licensed practising physicians and examine such person and hear the evidence in the case. If after full examination they find such person an idiot, lunatic, or epileptic, they shall certify either to the said judge or to the board of county commissioners whether, in their opinion, such person is curable or incurable, and whether or not he is dangerous to be at large, and thereupon the judge or the board of county commissioners, in his or its discretion, may order that the person be sent to the lunatic asylum.

The judge of the probate court may commit to the lunatic asylum any idiot, lunatic, or person *non compos mentis*, who, in his opinion, is so furiously mad as to be unfit to be at large. In all cases the judge shall certify in what place the said person resided.

No patient shall be admitted to the asylum until the expenses of one-half year, or of such shorter time as the nature of the case seems to require, shall be paid in advance. A bond shall be given to secure the payment of all expenses; but such bond shall not be required of the county commissioners sending a pauper patient to the institution.

Whenever any lunatic or epileptic shall have recovered, it shall be the duty of the regents to discharge him from the asylum. Upon due notice from the superintendent of the asylum, the county commissioners of the various counties shall remove their imbeciles from the asylum, and shall take care of such persons in their respective county poor-houses.

It has been recently enacted that before any insane person not offered as a pay patient is admitted to the asylum, the county commissioners shall investigate and see upon what footing the patient shall be admitted.

and whether or not he is able to pay some part of the expense of his support.

In criminal cases, any judge of the circuit court is authorized to send to the lunatic asylum any person charged with the commission of any offence, who shall upon the trial before him prove to be *non compos mentis*, and the judge is authorized to make all necessary orders to carry into effect this power.

No pauper lunatic, idiot, or epileptic, shall be confined for safe keeping in any jail; and if any such person shall be imprisoned under, and by virtue of, any legal process, it shall be the duty of the sheriff, in whose custody he may be, to obtain his discharge as speedily as possible, and send him forthwith to the asylum, according to law.

The county commissioners shall be authorized to send all pauper lunatics, idiots, and epileptics, in their several counties, to the lunatic asylum.

TENNESSEE.¹

Each county is entitled to send to the hospital its due proportion, both of private and pauper patients, according to its population and the number of its insane, but not more than one non-paying patient to each four thousand inhabitants. Each senatorial district is entitled to send four pauper patients at the expense of the State.

No person shall be received as a private patient except by an order of the attending physician of the hospital, or at least two of the board of trustees. When the friends of such person supposed to be insane offer to place him in the hospital he shall not be admitted until the trustees have caused inquiry to be made as to the state of his mind, and have found him to be insane. A sworn certificate of insanity, in prescribed form, from at least one respectable physician, must be produced, setting forth that the patient is free from any infectious disease, and giving a concise history of the patient and his disease.

For the commitment of State patients, some respectable citizen of the county where the patient belongs shall file with a justice of the peace a statement, setting forth that the person is insane, that his insanity is of less than two years' duration, or that he is dangerous to be at large, that he is in needy circumstances, has a legal settlement in the county, and is a citizen of Tennessee. It shall also give the names of two persons, one of them a physician, who can testify to the facts stated. The justice shall summon the witnesses named, and such others as he thinks proper. If, after inquest, the justice is satisfied of the truth of the statement, he

¹ Statutes of Tennessee, 1871, Thompson & Steger, Vol. I. pp. 767-781; Vol. II. pp. 1516-1521, 1700; Vol. III. p. 271, § 5488. Acts of Tennessee, 1873, pp. 74, 75, 97; 1877, p. 71; 1883, p. 195.

shall require the medical witnesses to make a certificate, such as is required in the case of a pay patient, in regard to history, condition, etc. The justice shall also make a certificate, stating that he has examined the patient and finds him insane and poor, and a fit subject for the hospital. A certificate of the facts shall be filed by the justice with the clerk of the county court. The clerk shall send a copy to the superintendent of the hospital and make application for the patient's commitment. If the superintendent says that he can be received, the clerk shall issue a warrant directing that the patient be conveyed to the hospital.

Both the county courts and the chancery courts have jurisdiction to order an inquisition to be made into the sanity of any person, and to appoint a guardian for his person and property, if he is found insane. If a person so found to be an idiot or lunatic has no property, or not sufficient for his maintenance, he may be let out for the term of one year to the lowest bidder as other poor persons, or otherwise provided for as the court may direct. Security is to be taken by the court for the proper treatment of such person. Any justice of the peace in the recess of court, if satisfied from the finding of a jury, or otherwise, that there is danger of violence by such idiot or lunatic, may commit him to jail until the next term of the court.

When the plea of present insanity is urged in behalf of any person charged with a criminal offence, punishable with imprisonment or death, and the jury find the defendant to be insane, and unsafe to be set at liberty, the court shall order the superintendent of the Hospital for the Insane to receive and keep the defendant as other lunatics are kept. When, in the opinion of the trustees and physician, such patient has recovered from his insanity, they shall cause him to be delivered to the jailer of Davidson County for safe keeping, and shall send notice to the clerk of the county where the patient was arraigned. If, at the next term of the court, the district attorney wishes further to prosecute such person, he shall be taken to the county jail; but, if the district attorney does not wish further to prosecute the prisoner, he shall be discharged.

Whenever the physician of the penitentiary reports to the keeper that any convict is insane and ought, on that account, to be removed to the lunatic asylum, the keeper shall cause such insane convict to be so removed, to remain in the hospital until discharged by the physician of the lunatic asylum.

The trustees of the Hospital for the Insane have power to discharge at any time any of the patients in the hospital, unless committed to custody in the same by some court.

No persons not citizens of the State shall be admitted as patients in the Hospital for the Insane.

TEXAS.¹

The following persons may be admitted into the asylum as patients :

1. All persons who have been adjudged insane by a court of competent jurisdiction in this State and ordered to be conveyed to the asylum. This class shall be known as public patients.

2. All persons who may be certified to be insane by some respectable physician, under the regulations hereafter stated. This class shall be known as private patients.

Before any person can be admitted as a private patient the parent or legal guardian of such person, or, in case he has no parent or legal guardian, some near relative or other person interested in him, must present a written request to the superintendent for his admission, setting forth the name, age, and residence of the lunatic, with such other particulars as may be required. This request must be under oath and accompanied with the affidavit of the physician certifying to the insanity that he has made careful examination of the person and verily believes him to be insane. There must also be a certificate from the county judge of the county where the lunatic resides, that the examining physician is a respectable physician in regular practice.

All private patients shall be kept at their own expense, or the expense of their relatives or friends.

All public patients shall be kept at the expense of the State, but money so paid may be collected from the patient or those liable for his support, if they have property.

If applications be made for the admission of more patients than can be accommodated in the asylum, preference shall be given, in all instances, to public over private patients, and of the former class to cases of less than one year's duration over chronic cases, and to indigent patients over those possessed of property ; and no private patients shall be admitted during the pendency of an application by a public patient, nor shall any public non-indigent patient be admitted during the pendency of an application by an indigent public patient.

No idiot who can be safely kept in the county to which he belongs, nor any person with an infectious or contagious disease, shall be received into the asylum as a patient.

Any patient (except such as are charged with, or convicted of, some offence and have been adjudged insane in accordance with the provisions of the Code of Criminal Procedure) may be discharged from the asylum at any time upon the recommendation of the superintendent, approved by the board of managers. Any patient coming within the above exception can only be discharged by order of the court by which he was committed.

No patient shall be discharged without suitable clothing, and money

¹ Revised Statutes of Texas, 1879, pp. 20-26, 386, 387. Penal Code [bound with Revised Statutes], p. 5. Code of Criminal Procedure [bound with Revised Statutes], pp. 66, 86, 112, 113. General Laws of Texas, 1883, pp. 9-11, 103-105.

sufficient to pay his expenses home. If discharged uncured, he shall be conveyed, under guard, to his friends, or to the county from which he was sent.

If information in writing, under oath, be given to any county judge that any person in his county is a lunatic and ought to be placed under restraint, he shall, if he believes the statement, forthwith issue his warrant for the apprehension of such person, and shall fix a day for a hearing in the matter. He shall also have a jury of six competent persons of the county summoned to hear and determine the matter. The county attorney shall appear and represent the State, and the defendant shall be entitled to counsel, and in proper cases the court may appoint counsel for him. After the evidence is heard, the county judge shall submit the matter to the jury. Upon return of a verdict finding that the defendant is of unsound mind, and that it is necessary that he be placed under restraint, judgment shall be entered adjudging him to be a lunatic and ordering him to be conveyed to the lunatic asylum for restraint and treatment.

Immediately after any person is adjudged a lunatic the county judge shall communicate with the superintendent of the asylum, and, if notified that the patient can be accommodated, he shall issue his warrant to have the lunatic conveyed to the asylum without delay. No lunatic shall be taken to the asylum if some relative or friend will undertake, before the county judge, his care and restraint, giving a sufficient bond therefor.

The proceedings in any inquisition of lunacy shall be entered of record in the county court, and a transcript made of the same and sent to the superintendent of the asylum when the patient is sent there. The county judge shall see that the patient is supplied with proper clothing before sending him to the asylum.

No act done in a state of insanity can be punished as an offence. No person who becomes insane after he committed an offence shall be tried for the same while in such condition. No person who becomes insane after he is found guilty shall be punished for the offence while in such condition.

Where the jury are of opinion that a person pleading guilty is insane, they shall so report to the court, and an issue as to that fact shall be tried before another jury. If upon such trial it be found that the defendant is insane, he shall be committed to the asylum in the same manner as where a defendant is found insane after conviction.

If it be made known to the court at any time after conviction, or if the court has good reason to believe, that a defendant is insane, a jury shall be impanelled to try the issue. If the defendant has no counsel, the court shall appoint counsel for him. When a defendant is found by the jury to be insane, the court shall make an order committing the defendant to the custody of the sheriff. The proceedings shall then forthwith be certified to the county judge, who shall take the necessary steps at once to have the defendant confined in the lunatic asylum until he becomes sane. Should the defendant become sane, he shall be brought before the court in which he was convicted, and a jury shall again be impanelled to try the issue of his sanity; and should he be found to be sane, the conviction shall be enforced against him in the same manner as

if the proceedings had never been suspended; if found insane, he shall be remanded to the lunatic asylum.

The judge of the county court may, on proper information and proceedings, appoint a guardian for any person of unsound mind.

If any person shall be furiously mad or so far disordered in his mind as to endanger his own person or the property of others, it shall be the duty of the guardian or other person, under whose care he may be, to confine him in some suitable place until the first regular term of the county court of his county, when the court shall make such order for the restraint, support, and safe keeping of such person as the circumstances may require. If the persons having charge of such an insane person do not confine him, or if there be no one in charge of him, any magistrate may cause him to be apprehended, and may employ any person to confine him in some suitable place until the county court makes further order in regard to him.

UTAH.¹ (TERRITORY.)

Patients may be admitted to the asylum in the following manner: The probate judge of any county shall, upon application, under oath, setting forth that a person, by reason of insanity, is dangerous to be at large, cause such person to be brought before him, and shall summon to appear at the same time two or more witnesses who well knew the person alleged to be insane, who shall testify as to his conversation, manners, and general conduct; and the judge shall also cause to appear, at the same time, two practising physicians, who shall be present during the hearing. If, after a hearing of the evidence, and a personal examination of the alleged insane person, the physicians shall certify that the person is insane, and the case is of a recent or curable character, or that the insane person is of a homicidal, suicidal, or incendiary disposition, or that from any other violent symptoms he would be dangerous to be at large, the judge, if convinced that the facts are in accordance with the physicians' certificate, shall direct the sheriff or some suitable person to convey to, and place in charge of the officers of, the Territorial Insane Asylum such insane person. The physicians shall also certify to the name, age, nativity, residence, occupation, length of time in the Territory, State or country last lived in, previous habits, premonitory symptoms, apparent cause and class of insanity, duration of the disease and present condition, as nearly as may be ascertained by examination and inquiry. A copy of the complaint, commitment, and physicians' certificate shall be sent to the medical superintendent of the asylum.

No case of idiocy, imbecility, harmless chronic mental unsoundness or delirium tremens shall be committed to the asylum. If any persons of

¹ Laws of Utah, 1878, pp. 134, 135, 159-161; 1880, pp. 57-65, 75; 1882, p. 32.

either of these classes are unlawfully placed in the asylum, the superintendent may discharge them and return them to the county from which they were committed.

If an insane person committed to the asylum has property, the judge shall appoint a guardian to take charge of the same, and apply it to paying the expenses of the insane person in the asylum.

The kindred or friends of an inmate of the asylum may receive such inmate therefrom, upon giving satisfactory evidence that they are capable and suited to take charge of, and give proper care to, such insane person, and exercise proper restraint over him. If the evidence satisfies the judge on these points, he may make an order, directed to the medical superintendent of the asylum, for the removal of such person. If, after such removal, the insane person is not properly cared for or restrained, the judge may order him to be returned to the asylum.

Non-residents of the Territory shall not be committed to, nor supported in, the asylum, except temporarily, until they can be returned to their home or friends.

Indigent patients shall be supported in the asylum by the county from which they are sent.

A person cannot be tried, adjudged to punishment, or punished for a public offence while he is insane. When an indictment is called for trial, if a doubt arises as to the sanity of the defendant, the court must order the question to be submitted to a jury; when such doubt arises on the defendant being brought up for judgment on conviction, the court must order a jury to be summoned from the list of jurors provided by law to inquire into the fact, and the trial of the indictment, or the pronouncing of the judgment, must be suspended until the question of insanity is determined by the verdict of the jury. If the jury find the defendant insane, the trial or judgment must be suspended until he becomes sane, and the court, if it deems his discharge dangerous to the public peace or safety, may order that he be in the mean time committed by the proper officer to a lunatic asylum. If the defendant is received into an asylum, he must be detained there until he becomes sane, when he must be brought from the asylum and placed in proper custody until he is brought to trial or judgment, as the case may be, or is legally discharged.

If, after judgment of death, there is good reason to suppose that the defendant has become insane, the proper officer, with the concurrence of the judge of the court by which the judgment was rendered, may summon from the list of jurors selected by the proper officers for the year a jury of twelve persons to inquire into the supposed insanity. The prosecuting attorney must attend the inquisition, and may produce witnesses. If it is found by the inquisition that the defendant is insane, the officer must suspend the execution of the judgment until he receives a warrant from the Governor, or from the judge of the court by which the judgment was rendered, directing the execution. The Governor, when the defendant becomes sane, may appoint a day for the execution of the judgment.

VERMONT.¹

No person shall be admitted to, or detained in, an insane asylum as a patient or inmate, except upon the certificate of such person's insanity, stating the reasons for adjudging such person insane, made by two physicians of unquestioned integrity and skill, residing in the probate district in which such insane person resides, or, if such insane person is not a resident of the State, in the probate district in which the asylum is situated; or if such insane person is a convict in the State Prison or House of Correction, such physicians may be residents of the probate district in which such place of confinement is situated. The two physicians making such certificate shall not be members of the same firm and neither shall be an officer of an insane asylum of this State.

The next friend or relative of a person thus found insane, may appeal to the supervisors of the insane. The supervisors shall examine the case, the examination being had in the town where the appellant resides. Pending the appeal, the patient shall not be committed to the asylum. If the supervisors find that there was not sufficient ground for making the certificate, they shall declare it void.

Idiots and persons *non compos*, who are not dangerous, shall not be confined in an asylum for the insane, and, if any such persons are so confined, the supervisors of the insane shall cause them to be discharged.

The physicians' certificate, above mentioned, shall be made not more than ten days previous to the admission of such insane person to the asylum and not more than five days after making a careful examination. There must be a certificate of the judge of probate of the district in which the physicians reside, that the physicians are of unquestioned integrity and skill in their profession. This certificate shall be presented to the proper officer of the asylum at the time the patient is presented for admission.

Any physician signing a certificate without first making a careful examination of the supposed insane person, shall be liable to a penalty of from \$50 to \$100, in case the person is sent to an asylum on such certificate.

A person may be received into an asylum without a certificate, by the order or sentence of the supreme or county court, upon the presentation of a certified copy of the order or sentence.

If the probate judge, in a case duly brought before him by the selectmen of a town and the State's attorney, finds that an insane person is without a settlement in any town and is liable to be supported by the State, and the insanity of such person is certified to by two physicians of unquestioned skill and integrity, resident in said probate district, who are duly indorsed by said judge, the judge shall issue an order for the removal of such insane person to the Vermont Asylum for the Insane, to be there supported. The officer, or other person appointed by the judge to transport such insane person to the asylum, shall leave with the super-

¹ Revised Laws of Vermont, 1880, pp. 355, 491, 559-565, 843, 844. Laws of Vermont, 1882, pp. 55-59.

intendent, or one of the trustees of the asylum, a copy of the judge's order and also a copy of the physicians' certificate indorsed by the judge. When such person is lawfully discharged from the asylum, the town causing him to be removed thereto shall take charge of and support him again.

No patient shall be supported in the asylum entirely at the expense of the State unless he is sent there upon the order of a probate judge, or from the State Prison or House of Correction, or upon the order or sentence of the county or supreme court. Insane town paupers or insane persons in indigent circumstances shall be supported by the town where they belong, at the Vermont Asylum for the Insane. The selectmen may make contracts with the officers of the asylum for their support. If a person is insane and his property is not sufficient to support himself and his wife and children, his wife may complain to the county court in the county where such insane person has his settlement, and the court, after a hearing, may order the town to support the insane person at the asylum. In certain cases the State will pay a part of the expenses of poor patients placed in the hospital by the selectmen of a town.

There shall be three supervisors of the insane elected by the general assembly, two of whom shall be physicians, and none of them shall be a trustee or officer of an insane asylum in the State. The supervisors shall visit every asylum for the insane in the State, one of the board as often as once a month, and they shall examine into the management and condition of the patients, and they shall particularly ascertain whether persons are confined in any asylum who ought to be discharged, and they may make such orders as any case requires. The supervisors may discharge, by their order in writing, any person confined as a patient in any asylum for the insane whom they find, on investigation, to be wrongfully confined, or whom they find so far sane as to warrant discharge. But convicts sent to the asylum from the State Prison or House of Correction, who are found insane before the expiration of their sentence, shall not be discharged, but shall be returned to the prison or house of correction. In no case shall the supervisors order the discharge of a patient without giving the superintendent of the asylum an opportunity to be heard.

The Governor may refer the case of any patient in the asylums for the insane to the supervisors for their investigation. If in any case they have not the power to grant the necessary relief, they shall, if the patient is one of the insane poor of the State, cause such proceedings to be commenced in court as are necessary to obtain the required relief.

The friends or relatives of a patient may apply to the supervisors to inquire into the treatment and confinement of such patient, and the supervisors shall take such action upon such application as it requires.

If a trustee, superintendent, employé, or other officer of an asylum for the insane wilfully and knowingly neglects or refuses to discharge a patient after such patient has become sane, or after the supervisors have ordered his discharge, he shall be fined not more than \$500.

It shall be the duty of the legal guardian of any insane person not a pauper, and the duty of the overseer of the poor of the town in which any insane person who is a pauper resides, when such insane person

is not placed in an asylum, to keep such insane person under such restraint as may be necessary to prevent his going at large. If any insane person, not a pauper, found going at large in any town, shall have no legally appointed guardian, application for the appointment of a guardian over him may be made to the probate court of the district in which such insane person resides by the selectmen of the town where such insane person is going at large.

When a person held in prison on a charge of having committed an offence is not indicted by the grand jury by reason of insanity, the grand jury shall so certify to the court, and thereupon if the discharge or going at large of such insane person is deemed manifestly dangerous to the community, the court may order him confined in the county jail or in the insane asylum at Brattleboro or some other suitable place at his own expense if he has estate sufficient for the purpose, and, if not, at the expense of the State.

When a person tried on an indictment or information for any crime or offence is acquitted by the jury by reason of insanity, the jury, in giving their verdict of not guilty, shall state that it is given for such cause, and thereupon, if the discharge or going at large of such insane person is considered dangerous, the court may order him, in its discretion, to be confined in the State Prison or in the insane asylum at Brattleboro, on such terms as the court directs.

A person confined as insane under an order of court, after having been acquitted or not indicted because of his insanity, shall be discharged from confinement only by order of the county court for the county in which the order for confinement was made, upon petition therefor, and after notice to the State's attorney.

In case such person is confined in the insane asylum at Brattleboro, and has no estate, such petition may be brought in his behalf by the supervisors of the insane at the expense of the State. The court thus petitioned may direct that such insane person be brought before it for hearing. If, upon hearing, it appears to the court that such person has become sane, and his discharge or going at large is not considered by the court dangerous to the community, the court shall order the discharge of such person from confinement. Otherwise the petition shall be dismissed and such person shall be recommitted to the place of confinement from which he was brought.

When a person acquitted of any crime or offence because of his insanity is confined by order of the court, such court may, on petition and after notice to the State's attorney, alter the terms on which such person is confined.

When a person confined in the house of correction or State Prison for a specified time, or for life, becomes insane, and proper certificates of that fact are made, the directors may cause such prisoner to be removed to the insane asylum at Brattleboro, on such terms as they deem just, there to remain until he becomes cured of his insanity, or until the expiration of the term for which he was committed to the prison or house of correction.

If before the expiration of such term such person becomes sane, he shall be returned to the institution to which he was originally committed, and confined therein for the remainder of said term. A prisoner, who at

the expiration of his term of confinement remains insane, may be removed to the insane asylum at Brattleboro, and may be there kept, or, if already there, may remain at the expense of the State or of the town where he belongs, or of the relatives bound to support him.

VIRGINIA.¹

On an application on behalf of a person for his admission into an asylum, the examining board (directors of the asylum), if unanimous that he ought to be admitted, may receive him as a patient therein, provided sufficient security is given for the payment of the patient's expenses, and his removal when required.

Any justice who shall suspect any person in his county or corporation to be a lunatic shall have such person brought before him. He and two other justices shall inquire whether such person be a lunatic, and, for that purpose, summon his physician, if any, and any other witnesses. They shall, so far as the same are applicable, propound sixteen prescribed questions relating to the history and condition of the patient. If the said justices decide that the person is a lunatic, and ought to be confined, and ascertain that he is a citizen of the State, then, unless some person will give bond, with sufficient security, to restrain and take proper care of such lunatic, the justices shall order him to be taken to the nearest asylum, if there be room therein, and, if not, to the other. The written interrogatories and answers, and a written statement by the justices as to the fact of insanity, shall be sent with their order to the asylum. The sheriff or officer who is to execute the order of the justices shall ascertain whether there is a vacancy in the nearest asylum, and, if there be none, he shall make inquiry of the other superintendents. Until it is ascertained that there is a vacancy, the patient shall be kept in the jail of the county or corporation. When such patient arrives at the asylum, the board of directors shall be assembled, as soon as may be, and, if they concur in opinion with the justices, they shall receive and register him as a patient. If they refuse to receive the lunatic, the officer in whose custody he may be shall confine him in the jail of the county where he was examined until lawfully discharged or removed therefrom. If a person found insane is not sent to an asylum, he shall be placed in the hands of a committee of the person and estate.

If a lunatic who is committed to jail, or received into an asylum, is found to be a non-resident of the State, he shall, as soon as practicable, be returned to his friends or to the proper authorities of the State where

¹ Code of Virginia, 1873, pp. 714-725, 1241, 1247, 1248. Acts of Assembly, Virginia, 1874, pp. 23, 24; 1875-76, p. 8; 1876-77, pp. 38, 39; 1877-78, pp. 215, 216; 1878-79, pp. 367, 368; 1881-82, pp. 134, 135.

he belongs. No non-resident lunatic shall be admitted or retained in either asylum as a pay patient, except when there is a vacancy not applied for on behalf of any person residing in the State.

The Governor is authorized to cause insane persons not now kept in either of the State lunatic asylums to be taken to and kept in such insane asylums beyond the limits of the State as he may select, and he may make all necessary arrangements with the persons having charge of such asylums.

Insane persons of the naval service of the United States who may be sent to either asylum by the Secretary of the Navy may be received so long as there is room in the asylums, but when it shall become necessary for the purpose of accommodating insane persons who are citizens of the State, such insane persons of the naval service, or so many as may be necessary, shall be removed from the asylums and restored to the care of the Secretary of the Navy.

Idiots may not be sent to, or kept in, the insane asylums, but shall be taken charge of by their committees or by the overseers of the poor.

Except in the case of patients charged with crime, the board of any asylum, or the court of any county or corporation, may deliver any lunatic confined in such asylum, or in the jail of the county, to any friend who will give proper bond to take care of him, and where any lunatic not a criminal is deemed by the superintendent of any asylum both harmless and incurable, the board may deliver him, without any bond, to any friend who is willing and able to take care of him.

If any person who has given bond and taken charge of a lunatic wishes to be relieved of the care of him, he may deliver him to the sheriff of the county, or sergeant of the corporation, according to the condition of the bond. Such sheriff or sergeant shall carry the lunatic before a justice of his county or corporation, and the regular proceedings shall be had for committing the patient to an asylum.

If a person who has given bond to take care of a lunatic desires to put him in an asylum, he may take the patient directly before a justice, and may perform all the duties that a sheriff or sergeant might perform in the matter of having him committed to the asylum.

When a person in jail on a charge of having committed a criminal offence appears, from a certificate of a grand jury, or otherwise, to the satisfaction of the court in which he is held to answer, to have been insane at the time of committing the act, and continues to be so insane, the court, in its discretion, may order him to be sent to one of the lunatic asylums of the State, or to be delivered to his friends.

If a court in which a person is held for trial see reasonable ground to doubt his sanity at the time of trial, it shall suspend the trial and impanel a jury to inquire into the insanity. If the jury find that the accused is insane, they shall inquire whether or not he was so at the time of the alleged offence. If they find that he was insane at that time, the court may dismiss the prosecution, and either discharge him or, to prevent his doing mischief, remand him to jail and order him to be removed thence to one of the lunatic asylums. If they find that he was not insane at the time the offence was committed, but has become so since, the court shall commit him to jail or order him to be confined in one of the asylums until he is so restored that he can be put on trial.

When a person tried for an offence is acquitted by the jury by reason of his being insane, the verdict shall state the fact, and thereupon the court may, if it deems him dangerous, order him to be committed to jail until he can be sent to one of the asylums.

If, after conviction and before sentence of any person, the court see reasonable ground to doubt his sanity, it may impanel a jury to inquire into the fact as to his sanity, and sentence him or commit him to jail or to a lunatic asylum, according as the jury may find him to be insane or sane.

When any person confined in an asylum and charged with crime, and subject to be tried therefor, or convicted of crime, shall be restored to sanity, the board shall give notice thereof to the clerk of the court by whose order, or by the order of the judge of which he was confined. Such clerk shall issue a precept requiring the prisoner to be brought from the asylum and committed to jail. When a prisoner is so brought from the asylum and committed to jail, or when it is found by the verdict of another jury that a prisoner whose trial or sentence was suspended by reason of his being found to be insane has been restored to reason, if he has already been convicted, he shall be sentenced; if not, the trial shall be held as if no delay had occurred on account of his insanity.

When any person not a criminal, confined in an asylum or jail as a lunatic, shall be restored to sanity, the board or the court, as the case may be, shall discharge him and give him a certificate thereof.

When any person shall be confined in any jail as a lunatic, the jailer shall certify the fact to the court of the county or corporation at their next term. The court shall thereupon cause such person to be examined by two disinterested persons, who shall, as soon as may be, report the result thereof. The court shall then make such provision for the maintenance and care of the patient as his condition may require. It shall, when practicable and proper, contract with some fit person for the maintenance and care of such lunatic out of the jail, and make allowance for the expense of such support not exceeding what is authorized for a lunatic confined in jail.

The committee of an insane person appointed by the circuit or county courts shall be entitled to the custody and control of his person when he resides in the State and is not confined in an asylum or jail.

WASHINGTON.¹ (TERRITORY.)

No person laboring under any contagious or infectious disease shall be admitted to the lunatic hospital as patient. In admitting patients to, and retaining them in, the hospital, the indigent insane of the Territory shall

¹ Washington Code and Appendix, 1881, pp. 203, 204, 276-281, 351, 388-394.

have precedence, and if the hospital at any time becomes crowded, recent cases shall, for the time being, have precedence over those of a chronic character.

The probate court of any county, or the judge thereof, upon application of any person, under oath, setting forth that any person, by reason of insanity, is unsafe to be at large, or is suffering under mental derangement, shall cause such person to be brought before said court, or judge, at a time appointed, and shall cause to appear at the same time one or more respectable physicians, who shall state, under oath, in writing, their opinion of the case. If the physician or physicians shall certify to the insanity or idiocy of the person, and it appears to the satisfaction of the court, or judge, that such certificate is true, said court, or judge, shall cause such insane or idiotic person to be taken to the Hospital for the Insane in Washington Territory; provided, that such alleged insane person, or any person in his behalf, may demand a jury to decide upon the question of his insanity, and the court, or judge, shall discharge such person if the verdict of the jury is that he is sane.

The probate court, or judge, shall also inquire as to the property of such insane person, and in case such person shall have sufficient means to bear such expense, two months' charges shall be paid in advance on his admission, and a like amount every two months thereafter so long as he remains in the hospital. If the relations or friends of such insane or idiotic person desire to take charge of him, the court, or judge, may so order, if sufficient bond is given that such insane or idiotic person shall be well and securely kept. If it be found by the court that the person so brought before it is of unsound mind, and incapable of managing his own affairs, and has property, the court shall appoint a guardian for the estate of such insane person.

Paying patients, whose friends or whose property can pay their expenses, shall do so in accordance with the contract made with the trustees of the hospital.

Whenever the court shall receive information that an insane person under guardianship has recovered his reason, it shall inquire into the facts, and, if it finds that such person is of sound mind, shall forthwith discharge him from care and custody.

Any patient may be discharged from the hospital, when, in the judgment of the superintendent, it may be expedient.

Whenever a patient not cured, or any indigent patient, shall be ordered discharged, he shall, if the superintendent thinks fit, be sent unattended to the county where he belongs; but if for any reason he is unfit to be sent alone, the superintendent shall so certify to the probate judge of said county, who shall order the sheriff to remove the patient to the county from which he came. No pauper shall be discharged from the hospital without suitable clothing, and such sum of money, not exceeding \$10, as the trustees deem necessary.

There shall be no censorship exercised over the correspondence of the inmates of insane asylums, except as to the letters to them directed; but their other post-office rights shall be as free and unrestrained as are those of any other resident or citizen of this Territory, and be under the protection of the same postal laws; and every inmate shall be allowed to

write one letter a week to any person he or she may choose. There shall be a post-office box in the asylum.

In all asylum investigations, the testimony of any person offered as a witness, whether sane or insane, shall be competent, the court and jury being sole judges of its credibility.

The district courts of the Territory shall have power to commit to the insane hospital any person who, having been arraigned for an indictable offence, shall be found by the jury to be insane at the time of such arraignment.

When any person indicted for an offence shall on trial be acquitted by reason of insanity, the jury, in giving their verdict, shall so state, and thereupon, if the discharge or going at large of such insane person shall be considered by the court manifestly dangerous, the court may order him to be committed to the insane asylum, or may give him into the care of his friends, if they will give sufficient bonds that he will be well and securely kept. Otherwise he shall be discharged.

WEST VIRGINIA.¹

Any justice who shall suspect any person in his county to be a lunatic, shall issue his warrant and have the person brought before him. He shall make inquiry whether such person is a lunatic, and for that purpose summon a physician and other witnesses. He shall propound so many of fifteen prescribed questions as are applicable to the case, touching the history and condition of the patient. If the justice decide that the person is a lunatic and ought to be confined in the hospital, and ascertain that he is a citizen of the State, then, unless some person will give sufficient security to restrain and take proper care of such lunatic, the justice shall order him to be removed to the hospital. The interrogatories and their answers, together with a written statement by the justice of any facts relating to the insanity, shall be sent with the order to the hospital. The sheriff or other officer who is to execute the order, shall make inquiry of the superintendent whether he can receive the lunatic into the hospital, and whether he will send for the patient or have the sheriff take him to the hospital. Until the patient can be received in the hospital, he shall be kept in the jail of the county. When such patient arrives at the hospital, the examining board, consisting of the medical superintendent and one or more directors, shall be assembled as soon as may be, and, if they concur in opinion with the justice, the patient shall be registered as an inmate upon proper security for payment of expenses. If they refuse to receive the lunatic, the officer in charge of him shall

¹ Revised Statutes of West Virginia, Annotated, 1879, Vol. I. pp. 440, 446, 447; Vol. II pp. 673-680 Acts of West Virginia, 1881, p. 266; 1882, pp. 133-137; 1883, pp. 55, 56.

confine him in the jail of the county in which he was examined until lawfully discharged or removed therefrom.

If a lunatic is found to be a non-resident, he shall be returned to his friends or to the proper authorities of the State from which he came, and the Governor shall collect from that State, if possible, the money expended for such patient.

No non-resident lunatic shall be received or retained as a pay patient in the hospital, except when there is a vacancy not applied for on behalf of any person residing in the State.

Insane persons of the naval service of the United States, who may be sent to the hospital by the Secretary of the Navy, may be received and kept so long as there is room not wanted for citizens of the State.

Idiots are not to be sent to or received into the hospital, but are to be taken charge of by their committees if they have any, if not, by the supervisors or any of them.

Except in case of insane criminals, the board of the hospital, or the circuit court of any county, may deliver any lunatic confined in the hospital, or in the jail, to any friend who will give sufficient security to restrain and properly care for the lunatic; and where a lunatic, not a criminal, is deemed by the superintendent of the hospital both harmless and incurable, the board may deliver him without any bond to any friend who is willing, and, in the opinion of the board, able to take care of him.

When any person who has given bond and taken charge of a lunatic wishes to be relieved of the care of him, he may deliver him to the sheriff of the county according to the condition of the bond. The sheriff shall confine such patient in the jail of his county until a vacancy shall occur in the hospital.

When any person shall be confined in any jail as a lunatic, the jailer shall certify the fact to the circuit court of the county at the next term. The court shall cause such person to be examined by two disinterested persons, who shall, as soon as may be, report the result thereof. The court shall then make such provision for his maintenance and care as his situation may require. The court in whose jail any lunatic may be confined, shall, when practicable and proper, contract with some fit person for the care and maintenance of such lunatic out of jail, and make allowance therefor not exceeding what is authorized for a lunatic confined in jail.

The circuit court shall, on application of any party interested, examine any person suspected of being insane, with a view to appointing a committee. If a person be found to be insane by the justice before whom he may be examined, or in a court in which he may be charged with crime, the circuit court of the county of which he is an inhabitant shall appoint a committee of him. The committee of an insane person shall be entitled to the custody and control of his person when he resides in the State and is not confined in the hospital or jail.

When any person, not a criminal, confined in the hospital or jail as a lunatic shall be restored to sanity, the board of directors, if such person be in the asylum, or, if confined in jail, the circuit or county court, or any justice of the county in which such person is confined, upon exami-

nation of such person, if it be found proper to do so, shall discharge such person and give him a certificate thereof.

When a person in jail, on a charge of having committed an indictable offence, is not indicted by reason of his insanity at the time of committing the act and the grand jury certify this fact, the court may order him to be sent to the hospital for the insane of the State, or to be discharged.

If a court in which a person is indicted for a criminal offence see reasonable ground to doubt his sanity, at the time of trial, it shall suspend the trial and impanel a jury to inquire into the insanity. If the jury find that he is then insane, they shall inquire further whether he was so at the time of the alleged offence. If they find that he was so at that time, the court may dismiss the prosecution and either discharge him or, to prevent his doing mischief, remand him to jail and order him to be removed thence to the hospital for the insane. If they find that he was not insane at the time of the alleged offence, but has since become so, the court shall commit him to jail, or order him to be confined in the hospital until he is so restored that he can be put upon his trial.

When a person tried for an offence is acquitted by the jury by reason of his being insane, the verdict shall state the fact, and thereupon the court may, if it deem him dangerous, order him to be committed to jail until he can be sent to the hospital for the insane.

If, after conviction and before sentence of any person, the court see reasonable ground to doubt his sanity, it may impanel a jury to inquire into the fact as to his sanity, and sentence him or commit him to jail or to the hospital for the insane, according as the jury may find him to be sane or insane.

When any person confined in the hospital and subject to be tried for crime, or convicted of crime and held for sentence, shall be restored to sanity, the board shall give notice thereof to the clerk of the court by whose order he was confined. Such clerk shall issue a precept requiring the prisoner to be brought from the hospital and committed to jail. When a prisoner is so brought to the jail, or when it is found by the verdict of another jury that a prisoner whose trial or sentence was suspended by reason of his being found to be insane, has been restored, if already convicted, he shall be sentenced, and, if not, the court shall proceed to try him as if no delay had occurred on account of his insanity.

WISCONSIN.¹

The management of the insane asylums is in the hands of the State board of supervision of Wisconsin charitable, reformatory, and penal in-

¹ Revised Statutes of Wisconsin, 1878, pp. 69, 205-215, 462, 520, 661, 662, 973-975, 1042, 1098, 1099, 1139, 1140. Laws of Wisconsin, 1880, pp. 121, 122, 299-302, 317; 1881, pp. 245, 246, 274, 275, 283-287, 376, 378-388; 1882, pp. 400, 914; 1883, Vol. I. pp. 24-28, 128, 129, 135-138.

stitutions, which acts as commissioners of lunacy, with power to investigate the question of the insanity and condition of any person committed or confined in any lunatic hospital or asylum, public or private, or restrained of his liberty by reason of alleged insanity. The board shall take the proper legal steps for the discharge of any person so committed or restrained, if, in its opinion, such person is not insane, or can be cared for after such discharge without danger to others and with benefit to himself. Any letter, communication or complaint, addressed to such board, or to any member thereof, by any inmate or employé in any of said institutions, shall be forwarded as addressed, without being opened or interfered with.

Patients shall be admitted to the hospitals for the insane from the several counties in the ratio of their population, but each county shall be entitled to at least two patients, if desired. No person idiotic from birth shall be admitted; and no person shall be retained in either hospital after, by a fair trial, it shall have become reasonably certain that such person is incurably insane, if the room is wanted for cases of a more hopeful character. But no person in the hospitals committed as an insane criminal shall be discharged without an order of the court having jurisdiction over such person.

Whenever any resident of this State, or any person found therein whose residence cannot be ascertained, shall be, or be supposed to be, insane, application may be made in his behalf by any respectable citizen to the judge of the county court, judge of the circuit court, or any judge of a court of record in and for the county in which the patient resides, or, in case his residence is unknown, the county in which he is found, for a judicial inquiry as to his mental condition, and for an order of commitment to some hospital or asylum for the insane.

The application shall be in writing, and shall specify whether or not a trial by jury is desired by the applicant. The judge applied to shall appoint two disinterested physicians of good repute for medical skill and moral integrity to visit and examine the person alleged to be insane. Such physicians shall forthwith, by personal examination, satisfy themselves as to the patient's condition and report to the judge. Such report shall cover twenty-nine prescribed points touching the history and condition of the patient. Upon the receipt of the physicians' report the judge may, if no demand has been made for a jury, make his order of commitment to the hospital or asylum of the district to which the county belongs, or, if not fully satisfied, may make further investigation of the case. At any stage of the proceedings, and before the actual confinement of the person, he, or any relative or friend acting in his behalf, shall have the right to demand that the question of sanity be tried by a jury. In case a trial by jury is demanded, the forms of procedure shall be the same as in trials by jury in justices' courts, and the trial shall be in the presence of the person supposed to be insane, and his counsel and immediate friends, and the medical witnesses. All other persons shall be excluded. If the jury find the person sane, he shall be discharged. If they find him insane, and a fit person to be sent to a hospital for the insane, they shall so state.

The physician's report or certificate shall be sent with the patient to

the hospital or asylum. All proceedings relating to the commitment of insane persons shall be filed with the county judge of the county in which the insane person resides, who is required to keep a record-book, in which all proceedings shall be recorded, and be open to inspection. Whenever, in the opinion of the judge applied to, the public safety requires it, he may order the sheriff forthwith to take and confine the supposed insane person in some place specified, until the further proceedings for his commitment can be had, or until the further order of the judge. Or if, after the receipt by the judge of the report of the examining physician, he deems it proper, he may order the sheriff then to take the alleged insane person into custody, and keep him in some place specified until the further order of the judge.

When any respectable citizen has reason to question the propriety or justice of the confinement of any patient committed to any hospital or asylum, he may apply to any of the judges above mentioned of the county in which such person resides, asking for a rehearing and a further judicial inquiry as to the mental condition of such person. The proceedings, upon the rehearing, shall be substantially the same as upon the original commitment. If, upon such rehearing, the patient is found to be sane, an order shall be made that he be set at liberty. If it is determined that he is insane, no further action shall be taken upon the application.

No person not deemed dangerous when at large shall be committed to any hospital or asylum for the insane solely on account of physical infirmity or mental imbecility.

If any relative or friend of a patient committed to any hospital desires to perform the duty of taking him to the hospital, and is competent to do so, the warrant of commitment may be delivered to and executed by him, instead of by the sheriff.

Each patient sent to the hospital must be furnished with the amount of clothing prescribed, or he may be rejected by the superintendent.

When a patient is discharged as cured, the superintendent shall furnish him with suitable clothing, and a sum of money not exceeding \$20.

If the relatives or friends of any patient shall ask the discharge of such patient before he has recovered from his insanity, the superintendent may, in his discretion, require a bond to be executed, conditioned for the safe keeping of such patient.

Incurable and harmless patients shall be discharged whenever it is necessary to make room for recent or more hopeful cases, except in case of persons under the charge of, or conviction of, crime.

When an order is made for the removal of a patient, the superintendent, except when friends are willing to receive the patient, shall notify the county judge of the county from which the patient was sent, and he shall issue his warrant, directing the sheriff to remove the patient to the poor-house or jail in the county whence he was taken. Patients in either of the hospitals found to be non-residents of the State shall, when practicable, be transferred to the proper officers of their own State.

The several courts of record in the State shall be authorized to commit, for safe keeping and treatment, to either hospital for the insane, any person who shall be under charge of, or convicted before such court of, any crime punishable by imprisonment in the State Prison and awaiting

hearing, trial, conviction, or sentence, on account of alleged insanity at the time of the commission of such crime, or at any time afterwards and prior to sentence. Whenever it is found by an examination duly made that such a patient is no longer insane, the judge of the court from which such person was sent, and the district attorney of the proper county, shall be notified, and it shall be the duty of such judge to make an order for the removal of such person to the common jail of the county from which such person was sent, to be detained in such jail until further dealt with according to law, or until discharged therefrom in pursuance of law.

Whenever any person tried for any criminal offence is acquitted on the ground that he was insane at the time of the alleged offence, if he has recovered his sanity at the time of trial, he shall be discharged, but, if he is still insane, he shall be confined in one of the State hospitals for the insane, to be kept as other patients are kept and treated therein.

When any person is indicted or informed against for any offence, if there is a probability that such accused person is at the time of trial insane and incapacitated to act for himself, the court shall, in a summary manner, make inquisition by a jury or otherwise, as it deems most proper. If it is thus found that such accused person is insane, his trial shall be postponed indefinitely, and the court shall thereupon order that he be confined in one of the State hospitals for the insane. Upon the recovery of such person, he shall be committed to the county jail of the county where the indictment or information is pending, or held to bail for his appearance at the next succeeding term of said court for trial of such offence. If the accused is found to be incurably insane, he shall be treated and disposed of as other cases of incurable insanity according to law.

Whenever it shall appear to the satisfaction of the Governor by the representation of the warden and directors of the State Prison, and by examination, that any person confined therein has become insane during his imprisonment, and is still insane, he may make an order that such insane person be confined and treated in one of the State hospitals for the insane, and, upon his recovery, if before the expiration of his sentence, that he be returned to the State Prison.

Insane criminals and persons acquitted of crime on the ground of insanity, may be transferred to the Milwaukee County Asylum for the Insane as well as to the State asylums.

Whenever it is made to appear to a county judge, by a petition of a majority of the supervisors of any town, of the common council of any city, or of the board of trustees of any village, that the public safety requires the close custody of any poor insane person of such town, city, or village, the judge shall direct the sheriff forthwith to take and confine such insane person in some proper place specified. Such insane person, when so confined, shall be subject to the directions of the said judge, and shall receive such care, attention, and treatment as such judge shall deem proper and necessary.

Whenever there is not room in the State asylums for the insane of any county, such county may establish a county insane asylum. Upon the completion of such asylum, all inmates of the State institutions for the insane committed from, or belonging to, such county, held as chronic or incurable, and all insane inmates of the poor-house of such county, and

all other persons belonging to said county and duly adjudged to be insane, may be transferred to said county asylum : provided, however, that when any patient committed to the county asylum is found to belong to the class defined as acute insane, and to require permanent and special treatment for the purpose of cure, such person may be transferred to the State hospitals for the insane. When there is any room in any such county insane asylum for more than the patients of the county, patients from any other county may be received and cared for. A portion of the expense of erecting such county insane asylums, and of keeping patients therein, is paid by the State upon certain conditions and stipulations. Whenever any county has not made suitable provisions for the proper and humane care of its chronic or its acute insane, the board of charities or reform may direct the removal of either class of said insane to any county asylum, or to any other county possessing suitable accommodations therefor for care or medical treatment, as the circumstances seem to require.

Corporations may be formed for maintaining private insane asylums for the care and treatment of insane and feeble-minded persons. Any insane or feeble-minded person may, upon the written request of the guardian, or any friend of such person, be committed to any such private hospital or asylum in the same manner that insane persons are committed to the State Hospital for the Insane.

Insane or feeble-minded persons may voluntarily place themselves under the care and treatment of any such hospital, asylum, or institution.

All such private asylums are subject to substantially the same rules and provisions for supervision and visitation as the State hospitals for the insane.

Any person neglecting or abusing an inmate of an asylum for the insane shall be liable to a fine of \$200, or one year's imprisonment.

WYOMING.¹ (TERRITORY.)

There is no insane asylum in Wyoming. Patients are sent to the Iowa Hospital for the Insane, and elsewhere. Each county has the responsibility of caring for, and paying the expenses of, its pauper insane.

If information in writing be given to the probate judge that any person in the county is an idiot, lunatic, or person of unsound mind, and praying that an inquiry thereinto be had, the court, if satisfied that there is good cause for the exercise of its jurisdiction, shall cause the facts to be inquired into by a jury. If the court is not in session, a special term

¹ The Compiled Laws of Wyoming, 1876, pp. 35, 161, 162, 248, 249, 280, 295, 472-476. Session Laws of Wyoming, 1882, pp. 132, 133.

may be called for the purpose of holding an inquiry. The probate court may cause the person alleged to be of unsound mind to be brought before it, in its discretion, in the course of the proceedings. Whenever any judge of the probate court, justice of the peace, sheriff, coroner, or constable shall discover any person, resident of his county, to be of unsound mind, it shall be his duty to make application to the probate court, and thereupon like proceedings shall be had as in the case of information by unofficial persons. If it be found by the jury that the person inquired about is of unsound mind, and incapable of managing his affairs, the court shall appoint a guardian of the person and estate of such person.

The court may, if just cause appears, at any time during the term at which an inquisition is had, set the same aside, and cause a new jury to be impanelled to inquire into the facts; but when two juries concur in any case, the verdict shall not be set aside.

Every guardian of a person of unsound mind shall give a bond conditioned that he will take due and proper care of such insane person and of his property, and will faithfully do and perform all things enjoined upon him by the order of the court. Every such guardian shall take charge of the person committed to his charge, and provide for his support and maintenance.

If any person by lunacy or otherwise shall be furiously mad, or so far disordered in his mind as to endanger his own person, or the person or property of others, it shall be the duty of his guardian, or other person under whose care he may be, to confine him in some suitable place until the next sitting of the probate court of the county, which shall make such order for the restraint, support, and safe keeping of such person as the circumstances may require.

If any such person furiously mad shall not be confined by the person having charge of him, or there be no person having such charge, any judge of a court of record, or any two justices of the peace, may cause such insane person to be apprehended, and may employ any person to confine him in some suitable place until the probate court shall make further order therein.

If any person shall allege in writing, verified by oath, that any person declared to be of unsound mind has been restored to his right mind, the court by which the proceedings were had shall cause the facts to be inquired of by a jury. If it shall be found that such person has been restored to his right mind, he shall be discharged from care and custody.

Any person that becomes lunatic or insane after the commission of a crime or misdemeanor ought not to be tried for the offence during the continuance of the lunacy or insanity. If, after verdict of guilty, and before judgment pronounced, such person becomes lunatic or insane, no judgment shall be given while such lunacy or insanity continues. If, after judgment and before execution, such person becomes insane, then, in case the punishment be capital, the execution thereof shall be stayed until the recovery of such person from the insanity. In all these cases, it shall be the duty of the court to impanel a jury to try the question whether the accused be at the time of impanelling insane or not.

If any convict sentenced to the punishment of death shall appear to be insane, the sheriff shall give notice to a judge of the district court of

the judicial district, and shall summon a jury of twelve men to inquire into such insanity, at a time and place fixed by the judge, and shall give notice to the prosecuting attorney. If it be found that the convict is insane, the judge shall suspend the execution of the convict until such time as the Governor shall direct his execution. The Governor shall be notified of the proceedings and the finding, and, as soon as he is convinced that the convict has become of sound mind, he may issue a warrant appointing a time for his execution.

UNITED STATES.¹ (DISTRICT OF COLUMBIA.)

The chief executive officer of the Government Hospital for the Insane of the Army and Navy of the United States and of the District of Columbia is the superintendent, appointed by the Secretary of the Interior.

He shall, upon the order of the Secretary of War, the Secretary of the Navy, and the Secretary of the Treasury respectively, receive and keep in custody, until they are cured or removed by the same authority which ordered their reception: (1) Insane persons belonging to the army, navy, marine corps, and revenue cutter service. (2) Civilians employed in the quartermaster's and subsistence departments of the army, who may be, or may become, insane while in such employment. (3) Men who while in the service of the United States, in the army, navy, or marine corps, have been admitted to the hospital and have been discharged on the supposition that they were cured, and who have within three years after such discharge become again insane from causes existing at the time of such discharge, and have no adequate means of support. (4) Indigent insane persons who have been in either of the said services and have been discharged therefrom on account of disability arising from such insanity. (5) Indigent insane persons who have become insane within three years after their discharge from such service from causes which arose during and were produced by such service.

Also persons in the marine-hospital service becoming insane may be admitted to the Government Hospital for the Insane upon the order of the Secretary of the Treasury. Any inmate of the National Home for Disabled Volunteer Soldiers who is or may become insane, shall upon an order of the President of the Board of Managers of the National Home be admitted to said insane hospital and treated therein. The Secretary of the Navy may cause persons in the naval service, or marine corps, who become insane while in the service, to be placed in such hospital for the insane as in his opinion will be most convenient and

¹ Revised Statutes of the United States, 1873-1874, pp. 263, 945-948. Supplement to the Revised Statutes of the United States, Vol. I., 1874-1881, pp. 104, 191, 289, 461, 559. United States Statutes, 1881-1882, pp. 329, 330.

best calculated to effect a cure; and he is not restricted to the Government Hospital for the Insane.

All indigent insane persons, residents in the District of Columbia at the time they became insane, shall be entitled to the benefits of the hospital for the insane, and shall be admitted on the order of the executive authority of the District. The Secretary of the Interior may grant an order for admission into the hospital, when application is made in writing by a member of the board of visitors, accompanied by the certificate of a judge of the supreme court for the District of Columbia, or of any justice of the peace of the District. It must appear by this certificate that two respectable physicians, residents of the District, appeared before said judge or justice and deposed in writing that they knew the person alleged to be insane; that, from personal examination, they believed him to be insane and a fit subject for treatment in the hospital; and that he was a resident of the District when seized with the mental disorder then afflicting him. It must further appear by said certificate that two respectable householders, residents of the District, appeared before said judge or justice and deposed in writing that they knew the person alleged to be insane, and from personal examination believed such insane person unable to support himself or himself and family, if he have one, and unable to pay his board in the hospital. The affidavits of said physicians and householders shall accompany the certificate of the judge or justice.

The application must be made within five days after the date of the affidavits, and it must appear that the visitor applying has examined the affidavits and certificate. It shall be the duty of such visitor to withhold his application if he has reason to doubt the indigence of the insane person.

The order of the Secretary of the Interior being granted, any police officer or constable may assist in carrying such insane person to the hospital.

If the patient is found to have some property, he may be required to pay such part of his expenses in the hospital as may be just and reasonable.

Any indigent insane person who did not reside in the District at the time he became insane, may be received into the hospital in like manner, to stay temporarily, until it can be ascertained who his friends are, or whence he came.

Whenever there are vacancies, private patients from the District may be received, the rate of board to be determined by the visitors. The pay patients may be received on the certificate of two respectable physicians of the District, stating that they have personally examined the patient, and believe him to be insane, and a fit subject for treatment in the hospital. There must be also a written request for the admission from the nearest relatives, legal guardian, or friend of the patient. The request must be made within five days of the date of the certificate of insanity.

If any person will give bond, with sufficient security, to restrain and take care of any pay, or any indigent, insane person, not charged with a breach of the peace, whether in the hospital or not, the supreme court of the District, or any judge thereof, in vacation, may deliver the patient to him, to be kept until restored to sanity.

If any person charged with crime be found in the court before which he is so charged to be an insane person, such court shall certify the same to the Secretary of the Interior, who may order such person to be confined in the Hospital for the Insane.

Any person becoming insane during the continuance of his sentence in the United States Penitentiary shall have the same privilege of treatment in the hospital during the continuance of his mental disorder as is granted above to persons who escape the consequences of criminal acts by reason of insanity. If it be the opinion both of the physician to the penitentiary and the superintendent of the hospital that such insane convict is so depraved and furious in his character as to render his custody in the hospital insecure, and his example pernicious, he shall not be received.

When any person, confined in the Hospital for the Insane, charged with crime, and subject to be tried therefor, or convicted of crime, and undergoing sentence therefor, shall be restored to sanity, the superintendent of the hospital shall give notice to the judge of the criminal court, and deliver him to the court, in obedience to the proper precept.

No insane person, not charged with any breach of the peace, shall be confined in the United States Jail, in the District of Columbia.

Upon the application of the Attorney-General, the Secretary of the Interior shall transfer to the Government Hospital for the Insane, in the District of Columbia, all persons who, having been charged with offences against the United States, are in the actual custody of its officers, and all persons who have been or shall be convicted of any offence in a court of the United States, and are imprisoned in any State prison or penitentiary of any State or Territory, and who, during their term of imprisonment, have or shall become insane. In all cases where there shall not be accommodation for such insane convicts in the Insane Asylum of the District of Columbia, or if, for other reasons, the Attorney-General is of opinion that such insane person should be placed at a State insane asylum, rather than at said District Asylum, then the Attorney-General shall have power, in his discretion, to contract with any State insane or lunatic asylum within the State in which such convict is imprisoned for his care and custody while he remains insane. Whenever such insane convict shall be restored to sanity, he shall be returned to the prison or penitentiary from which the transfer was made, provided the term of imprisonment shall not have expired.

The questions of sanity in all such cases shall be determined in accordance with the rules and regulations of existing laws, State or national, on the subject, applicable to the prison, penitentiary, or asylum where such convict shall be confined.

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